Union Calendar No. 33

107TH CONGRESS 1ST SESSION

H.R. 10

[Report No. 107-51, Parts I and II]

To provide for pension reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 14, 2001

Mr. Portman (for himself, Mr. Cardin, Mr. Armey, Mr. Frost, Mr. Boehner, Mr. Andrews, Mr. Blunt, Mr. Bentsen, Mr. Gallegly, Mr. Moore, Mr. Houghton, Mr. Coyne, Mr. Sam Johnson of Texas, Mr. Pomeroy, Mrs. Johnson of Connecticut, Mr. Manzullo, Mrs. MORELLA, Mr. WELLER, Mr. WYNN, Mr. AKIN, Mr. BACA, Mr. BACHUS, Mr. Baird, Mr. Baker, Mr. Baldacci, Mr. Ballenger, Mr. Barcia, Mr. Barrett, Mr. Bass, Mr. Bereuter, Ms. Berkley, Mrs. Biggert, Mr. Blagojevich, Mr. Blumenauer, Mr. Borski, Mr. Boswell, Mrs. Bono, Mr. Brady of Texas, Mr. Brady of Pennsylvania, Mr. Bryant, Mr. Burr of North Carolina, Mr. Buyer, Mr. Calvert, Mr. Camp, Mr. CANTOR, Mrs. CAPITO, Mrs. CAPPS, Mr. CAPUANO, Mr. CHABOT, Mr. CLAY, Mr. CLEMENT, Mr. COBLE, Mr. COLLINS, Mr. CONDIT, Mr. COOKSEY, Mr. COX, Mr. CRANE, Mr. CRENSHAW, Mr. CROWLEY, Mr. Culberson, Mr. Cunningham, Mrs. Jo Ann Davis of Virginia, Mr. DELAHUNT, Mr. DEMINT, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. Dooley of California, Mr. Doyle, Mr. Dreier, Ms. Dunn, Mr. Ehr-LICH, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH, Ms. ESHOO, Mr. ETHERIDGE, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FERGUSON, Mr. FIL-NER, Mr. FLETCHER, Mr. FOLEY, Mr. FORD, Mr. FOSSELLA, Mr. Frelinghuysen, Mr. Ganske, Mr. Gibbons, Mr. Gilchrest, Mr. GILLMOR, Mr. GOSS, Mr. GONZALEZ, Mr. GOODE, Mr. GOODLATTE, Mr. GORDON, Ms. GRANGER, Mr. GRAVES, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. Greenwood, Mr. Hall of Texas, Mr. Hall of Ohio, Ms. Hart, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hefley, Mr. Herger, Mr. Hill, Mr. Hilleary, Mr. Hobson, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. HORN, Mr. HOYER, Mr. HULSHOF, Mr. HOLT, Mr. HUTCHINSON, Mr. HYDE, Mr. ISAKSON, Mr. ISTOOK, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. JONES of North Carolina, Mr. Kanjorski, Mrs. Kelly, Mr. Kennedy of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KING, Mr. KINGSTON, Mr. KIRK, Mr. KLECZKA, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARGENT, Mr. Larsen of Washington, Mr. Larson of Connecticut, Mr. Latham, Mr. LaTourette, Mr. Leach, Mr. Lewis of Kentucky, Mr. LoBiondo, Ms. Lofgren, Mrs. Lowey, Mr. Lucas of Oklahoma, Mr. Lucas of Kentucky, Mrs. Maloney of New York, Mr. Maloney of Connecticut, Mr. Mascara, Mr. Matheson, Mrs. McCarthy of New York, Ms. McCarthy of Missouri, Mr. McCrery, Mr. McGovern, Mr. McHugh, Mr. McInnis, Mr. McIntyre, Mr. McKeon, Mr. McNulty, Mr. Mee-HAN, Mr. MENENDEZ, Ms. MILLENDER-McDonald, Mr. Gary Miller of California, Mrs. Mink of Hawaii, Mr. Moran of Kansas, Mrs. Myrick, Mr. Nadler, Mr. Nethercutt, Mr. Ney, Mrs. Northup, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. OTTER, Mr. OXLEY, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. Pence, Mr. Peterson of Pennsylvania, Mr. Petri, Mr. Platts, Ms. PRYCE of Ohio, Mr. Putnam, Mr. Quinn, Mr. Rahall, Mr. Ramstad, Mr. Regula, Mr. Reynolds, Mr. Riley, Mr. Roemer, Mr. Rogers of Michigan, Mrs. ROUKEMA, Mr. ROTHMAN, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. Ryun of Kansas, Mr. Sandlin, Mr. Sawyer, Mr. Saxton, Ms. Schakowsky, Mr. Scarborough, Mr. Schaffer, Mr. Schrock, Mr. Sessions, Mr. Shadegg, Mr. Shaw, Mr. Shays, Mr. Sherman, Mr. Sherwood, Mr. Shows, Mr. Simmons, Mr. Simpson, Mr. Skel-TON, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. Snyder, Mr. Souder, Mr. Spratt, Mr. Stearns, Mr. STRICKLAND, Mr. STUPAK, Mr. SUNUNU, Mr. SWEENEY, Mr. TANCREDO, Mr. Tanner, Mrs. Tauscher, Mr. Taylor of North Carolina, Mr. Terry, Mr. Thompson of Mississippi, Mr. Thompson of California, Mr. THUNE, Mrs. THURMAN, Mr. TIBERI, Mr. TRAFICANT, Mr. TOOMEY, Mr. TURNER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. Watts of Oklahoma, Mr. Weiner, Mr. Weldon of Florida, Mr. WHITFIELD, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

May 1, 2001

Additional sponsors: Mr. Weldon of Pennsylvania, Mr. Fattah, Mr. Flake, Mr. Barr of Georgia, Mr. Rogers of Kentucky, Mr. Skeen, Mr. Farr of California, Mr. Inslee, Mr. Tiahrt, Mr. Jenkins, Mr. Bartlett of Maryland, Mr. Deal of Georgia, Mr. Costello, Ms. Delauro, Ms. Harman, Ms. McKinney, Mr. Rush, Mr. Boucher, Mr. Burton of Indiana, Mr. Davis of Illinois, Mr. Schiff, Mr. Gekas, Ms. Baldwin, Mr. Israel, Mr. Gutierrez, Mr. Doolittle, Ms. Carson of Indiana, Mr. Wicker, Mr. Hostettler, Mr. Shimkus, Mr. Peterson of Minnesota, Mr. Hansen, Mrs. Clayton, Mr. Tierney, Mr. Abercrombie, Mr. Grucci, Mr. Gilman, Ms. McCollum, Ms. Ros-Lehtinen, Mr. Rehberg, Mrs. Napolitano, Mr. Johnson of Illinois, Mr. Pitts, Mr.

DELAY, Mrs. Cubin, Ms. Sanchez, Mr. Thomas, Mr. Aderholt, Mr. Kerns, Mr. Tom Davis of Virginia, Mr. Vitter, Mr. Reyes, Mr. Brown of South Carolina, Mr. Moran of Virginia, and Mr. Brown of Ohio

May 1, 2001

Reported from the Committee on Ways and Means with an amendment [Strike out all after the enacting clause and insert the part printed in italic]

Reported from the Committee on Education and the Workforce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]
[For text of introduced bill, see copy of bill as introduced on March 14, 2001]

A BILL

To provide for pension reform, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-
- 4 TENTS.
- 5 (a) Short Title.—This Act may be cited as the
- 6 "Comprehensive Retirement Security and Pension Reform
- 7 Act of 2001".
- 8 (b) Amendment of 1986 Code.—Except as otherwise
- 9 expressly provided, whenever in this Act an amendment or
- 10 repeal is expressed in terms of an amendment to, or repeal
- 11 of, a section or other provision, the reference shall be consid-
- 12 ered to be made to a section or other provision of the Inter-
- 13 nal Revenue Code of 1986.

1 (c) Table of Contents of this

2 Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS

Sec. 101. Modification of IRA contribution limits.

TITLE II—EXPANDING COVERAGE

- Sec. 201. Increase in benefit and contribution limits.
- Sec. 202. Plan loans for subchapter S owners, partners, and sole proprietors.
- Sec. 203. Modification of top-heavy rules.
- Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.
- Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
- Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.
- Sec. 207. Deduction limits.
- Sec. 208. Option to treat elective deferrals as after-tax contributions.
- Sec. 209. Availability of qualified plans to self-employed individuals who are exempt from the self-employment tax by reason of their religious beliefs.
- Sec. 210. Certain nonresident aliens excluded in applying minimum coverage requirements.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

- Sec. 301. Catch-up contributions for individuals age 50 or over.
- Sec. 302. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 303. Faster vesting of certain employer matching contributions.
- Sec. 304. Modifications to minimum distribution rules.
- Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 306. Provisions relating to hardship distributions.
- Sec. 307. Waiver of tax on nondeductible contributions for domestic or similar workers.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.
- Sec. 402. Rollovers of IRAs into workplace retirement plans.
- Sec. 403. Rollovers of after-tax contributions.
- Sec. 404. Hardship exception to 60-day rule.
- Sec. 405. Treatment of forms of distribution.
- Sec. 406. Rationalization of restrictions on distributions.
- Sec. 407. Purchase of service credit in governmental defined benefit plans.
- Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

$\begin{array}{c} \textit{TITLE V--STRENGTHENING PENSION SECURITY AND} \\ \textit{ENFORCEMENT} \end{array}$

- Sec. 501. Repeal of percent of current liability funding limit.
- Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 503. Excise tax relief for sound pension funding.
- Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.
- Sec. 505. Treatment of multiemployer plans under section 415.
- Sec. 506. Protection of investment of employee contributions to 401(k) plans.
- Sec. 507. Periodic pension benefits statements.
- Sec. 508. Prohibited allocations of stock in S corporation ESOP.

TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.
- Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 604. Employees of tax-exempt entities.
- Sec. 605. Clarification of treatment of employer-provided retirement advice.
- Sec. 606. Reporting simplification.
- Sec. 607. Improvement of employee plans compliance resolution system.
- Sec. 608. Repeal of the multiple use test.
- Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 611. Notice and consent period regarding distributions.
- Sec. 612. Annual report dissemination.
- Sec. 613. Technical corrections to SAVER Act.

TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.
- Sec. 702. Reduced PBGC premium for new plans of small employers.
- Sec. 703. Reduction of additional PBGC premium for new and small plans.
- Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.
- Sec. 705. Substantial owner benefits in terminated plans.
- Sec. 706. Civil penalties for breach of fiduciary responsibility.
- Sec. 707. Benefit suspension notice.

TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

1 TITLE I—INDIVIDUAL 2 RETIREMENT ACCOUNTS

- 3 SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.
- 4 (a) Increase in Contribution Limit.—

1	(1) In General.— $Paragraph$ (1)(A) of section
2	219(b) (relating to maximum amount of deduction) is
3	amended by striking "\$2,000" and inserting "the de-
4	ductible amount".
5	(2) Deductible amount.—Section 219(b) is
6	amended by adding at the end the following new
7	paragraph:
8	"(5) Deductible amount.—For purposes of
9	paragraph (1)(A)—
10	"(A) In general.—The deductible amount
11	shall be determined in accordance with the fol-
12	lowing table:
	"For taxable years beginning in: The deductible amount is: 2002 \$3,000 2003 \$4,000 2004 \$4,000
13	2004 and thereafter\$5,000.
	"(B) CATCH-UP CONTRIBUTIONS FOR INDI-
14	VIDUALS 50 OR OLDER.—In the case of an indi-
15	vidual who has attained the age of 50 before the
16	close of the taxable year, the deductible amount
17	for taxable years beginning in 2002 or 2003
18	shall be \$5,000.
19	"(C) Cost-of-living adjustment.—
20	"(i) In general.—In the case of any
21	taxable year beginning in a calendar year
22	after 2004, the \$5,000 amount under sub-

1	paragraph (A) shall be increased by an
2	amount equal to—
3	"(I) such dollar amount, multi-
4	$plied\ by$
5	"(II) the cost-of-living adjustment
6	determined under section $1(f)(3)$ for
7	the calendar year in which the taxable
8	year begins, determined by substituting
9	'calendar year 2003' for 'calendar year
10	1992' in subparagraph (B) thereof.
11	"(ii) ROUNDING RULES.—If any
12	amount after adjustment under clause (i) is
13	not a multiple of \$500, such amount shall
14	be rounded to the next lower multiple of
15	<i>\$500.</i> ".
16	(b) Conforming Amendments.—
17	(1) Section 408(a)(1) is amended by striking "in
18	excess of \$2,000 on behalf of any individual" and in-
19	serting "on behalf of any individual in excess of the
20	amount in effect for such taxable year under section
21	219(b)(1)(A)".
22	(2) Section $408(b)(2)(B)$ is amended by striking
23	"\$2,000" and inserting "the dollar amount in effect
24	under section $219(b)(1)(A)$ ".

1	(3) Section 408(b) is amended by striking
2	"\$2,000" in the matter following paragraph (4) and
3	inserting "the dollar amount in effect under section
4	219(b)(1)(A)".
5	(4) Section $408(j)$ is amended by striking
6	"\$2,000".
7	(5) Section $408(p)(8)$ is amended by striking
8	"\$2,000" and inserting "the dollar amount in effect
9	under section $219(b)(1)(A)$ ".
10	(c) Effective Date.—The amendments made by this
11	section shall apply to taxable years beginning after Decem-
12	ber 31, 2001.
13	TITLE II—EXPANDING
14	COVERAGE
15	SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION
16	LIMITS.
17	(a) Defined Benefit Plans.—
18	(1) Dollar limit.—
19	
	(A) Subparagraph (A) of section $415(b)(1)$
20	(A) Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans)
20 21	
	(relating to limitation for defined benefit plans)
21	(relating to limitation for defined benefit plans) is amended by striking "\$90,000" and inserting

- 1 "\$90,000" each place it appears in the headings 2 and the text and inserting "\$160,000".
 - (C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking "the greater of \$68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '\$90,000'" and inserting "one-half the amount otherwise applicable for such year under paragraph (1)(A) for '\$160,000'".
 - (2) Limit reduced when benefit begins before age 62.—Subparagraph (C) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 62" and by striking the second sentence.
 - (3) Limit increased when benefit begins After Age 65.—Subparagraph (D) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 65".
 - (4) Cost-of-living adjustments.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

1	(A) by striking "\$90,000" in paragraph
2	(1)(A) and inserting "\$160,000"; and
3	(B) in paragraph $(3)(A)$ —
4	(i) by striking "\$90,000" in the head-
5	ing and inserting "\$160,000"; and
6	(ii) by striking "October 1, 1986" and
7	inserting "July 1, 2001".
8	(5) Conforming amendments.—
9	(A) Section 415(b)(2) is amended by strik-
10	ing subparagraph (F).
11	(B) Section 415(b)(9) is amended to read as
12	follows:
13	"(9) Special rule for commercial airline
14	PILOTS.—
15	"(A) In general.—Except as provided in
16	subparagraph (B), in the case of any participant
17	who is a commercial airline pilot, if, as of the
18	time of the participant's retirement, regulations
19	prescribed by the Federal Aviation Administra-
20	tion require an individual to separate from serv-
21	ice as a commercial airline pilot after attaining
22	any age occurring on or after age 60 and before
23	age 62, paragraph (2)(C) shall be applied by
24	substituting such age for age 62.

1	"(B) Individuals who separate from
2	SERVICE BEFORE AGE 60.—If a participant de-
3	scribed in subparagraph (A) separates from serv-
4	ice before age 60, the rules of paragraph (2)(C)
5	shall apply.".
6	(C) Section $415(b)(10)(C)(i)$ is amended by
7	striking "applied without regard to paragraph
8	(2)(F)".
9	(b) Defined Contribution Plans.—
10	(1) Dollar limit.—Subparagraph (A) of sec-
11	tion $415(c)(1)$ (relating to limitation for defined con-
12	tribution plans) is amended by striking "\$30,000"
13	and inserting "\$40,000".
14	(2) Cost-of-living adjustments.—Subsection
15	(d) of section 415 (related to cost-of-living adjust-
16	ments) is amended—
17	(A) by striking "\$30,000" in paragraph
18	(1)(C) and inserting "\$40,000"; and
19	(B) in paragraph $(3)(D)$ —
20	(i) by striking "\$30,000" in the head-
21	ing and inserting "\$40,000"; and
22	(ii) by striking "October 1, 1993" and
23	inserting "July 1, 2001".
24	(c) Qualified Trusts.—

1	(1) Compensation limit.—Sections 401(a)(17),
2	404(l), 408(k), and 505(b)(7) are each amended by
3	striking "\$150,000" each place it appears and insert-
4	ing "\$200,000".
5	(2) Base period and rounding of cost-of-
6	LIVING ADJUSTMENT.—Subparagraph (B) of section
7	401(a)(17) is amended—
8	(A) by striking "October 1, 1993" and in-
9	serting "July 1, 2001"; and
10	(B) by striking "\$10,000" both places it ap-
11	pears and inserting "\$5,000".
12	(d) Elective Deferrals.—
13	(1) In General.—Paragraph (1) of section
14	402(g) (relating to limitation on exclusion for elective
15	deferrals) is amended to read as follows:
16	"(1) In general.—
17	"(A) Limitation.—Notwithstanding sub-
18	sections (e)(3) and (h)(1)(B), the elective defer-
19	rals of any individual for any taxable year shall
20	be included in such individual's gross income to
21	the extent the amount of such deferrals for the
22	taxable year exceeds the applicable dollar
23	amount.
24	"(B) Applicable dollar amount.—For
25	nurposes of subnaragraph (A), the applicable

1 dollar amount shall be the amount determined in 2 accordance with the following table: "For taxable years The applicable beginning in dollar amount: calendar year: 2002 2003 \$12,000 2005 \$14,000 3 Cost-of-living adjustment.—Paragraph 4 (5) of section 402(q) is amended to read as follows: 5 "(5) Cost-of-living adjustment.—In the case of taxable years beginning after December 31, 2006, 6 7 the Secretary shall adjust the \$15,000 amount under 8 paragraph (1)(B) at the same time and in the same 9 manner as under section 415(d), except that the base 10 period shall be the calendar quarter beginning July 1, 11 2005, and any increase under this paragraph which 12 is not a multiple of \$500 shall be rounded to the next 13 lowest multiple of \$500.". 14 (3) Conforming amendments.— 15 (A) Section 402(g) (relating to limitation 16 on exclusion for elective deferrals), as amended 17 by paragraphs (1) and (2), is further amended 18 by striking paragraph (4) and redesignating 19 paragraphs (5), (6), (7), (8), and (9) as para-20 graphs (4), (5), (6), (7), and (8), respectively.

1	(B) Paragraph (2) of section $457(c)$ is
2	amended by striking "402(g)(8)(A)(iii)" and in-
3	serting " $402(g)(7)(A)(iii)$ ".
4	(C) Clause (iii) of section $501(c)(18)(D)$ is
5	amended by striking "(other than paragraph (4)
6	thereof)".
7	(e) Deferred Compensation Plans of State and
8	LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-
9	TIONS.—
10	(1) In General.—Section 457 (relating to de-
11	ferred compensation plans of State and local govern-
12	ments and tax-exempt organizations) is amended—
13	(A) in subsections $(b)(2)(A)$ and $(c)(1)$ by
14	striking "\$7,500" each place it appears and in-
15	serting "the applicable dollar amount"; and
16	(B) in subsection $(b)(3)(A)$ by striking
17	"\$15,000" and inserting "twice the dollar
18	amount in effect under subsection $(b)(2)(A)$ ".
19	(2) Applicable dollar amount; cost-of-liv-
20	ING ADJUSTMENT.—Paragraph (15) of section 457(e)
21	is amended to read as follows:
22	"(15) Applicable dollar amount.—
23	"(A) In general.—The applicable dollar
24	amount shall be the amount determined in ac-
25	cordance with the following table:

	"For taxable years The applicable beginning in dollar amount: calendar year:
	2002 \$11,000 2003 \$12,000 2004 \$13,000 2005 \$14,000 2006 or thereafter \$15,000.
1	"(B) Cost-of-living adjustments.—In
2	the case of taxable years beginning after Decem-
3	ber 31, 2006, the Secretary shall adjust the
4	\$15,000 amount under subparagraph (A) at the
5	same time and in the same manner as under sec-
6	tion 415(d), except that the base period shall be
7	the calendar quarter beginning July 1, 2005,
8	and any increase under this paragraph which is
9	not a multiple of \$500 shall be rounded to the
10	next lowest multiple of \$500.".
11	(f) Simple Retirement Accounts.—
12	(1) Limitation.—Clause (ii) of section
13	408(p)(2)(A) (relating to general rule for qualified
14	salary reduction arrangement) is amended by striking
15	
	"\$6,000" and inserting "the applicable dollar
16	amount".
17	(2) Applicable dollar amount.—Subpara-
18	graph (E) of $408(p)(2)$ is amended to read as follows:
19	"(E) Applicable dollar amount; cost-
20	OF-LIVING ADJUSTMENT.—

"(i) In general.—For purposes of
subparagraph (A)(ii), the applicable dollar
amount shall be the amount determined in
accordance with the following table:
"For taxable years beginning in calendar year: The applicable dollar amount: dollar amount: square dollar year: 2002 \$7,000 2003 \$8,000 2004 \$9,000 2005 or thereafter \$10,000
"(ii) Cost-of-living adjustment.—
In the case of a year beginning after Decem-
ber 31, 2005, the Secretary shall adjust the
\$10,000 amount under clause (i) at the
same time and in the same manner as
under section 415(d), except that the base
period taken into account shall be the cal-
endar quarter beginning July 1, 2004, and
any increase under this subparagraph
which is not a multiple of \$500 shall be
rounded to the next lower multiple of
<i>\$500.</i> ".
(3) Conforming amendments.—
(A) Subclause (I) of section
401(k)(11)(B)(i) is amended by striking
"\$6,000" and inserting "the amount in effect
under section $408(p)(2)(A)(ii)$ ".

1	(B) Section $401(k)(11)$ is amended by strik-
2	$ing\ subparagraph\ (E).$
3	(g) Rounding Rule Relating to Defined Benefit
4	Plans and Defined Contribution Plans.—Paragraph
5	(4) of section 415(d) is amended to read as follows:
6	"(4) Rounding.—
7	"(A) \$160,000 AMOUNT.—Any increase
8	under subparagraph (A) of paragraph (1) which
9	is not a multiple of \$5,000 shall be rounded to
10	the next lowest multiple of \$5,000.
11	"(B) \$40,000 AMOUNT.—Any increase
12	under subparagraph (C) of paragraph (1) which
13	is not a multiple of \$1,000 shall be rounded to
14	the next lowest multiple of \$1,000.".
15	(h) Effective Date.—The amendments made by this
16	section shall apply to years beginning after December 31,
17	2001.
18	SEC. 202. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-
19	NERS, AND SOLE PROPRIETORS.
20	(a) Amendment of Internal Revenue Code.—
21	Subparagraph (B) of section 4975(f)(6) (relating to exemp-
22	tions not to apply to certain transactions) is amended by
23	adding at the end the following new clause:
24	"(iii) Loan exception.—For purposes
25	of subparagraph $(A)(i)$, the term 'owner-em-

1	ployee' shall only include a person described
2	in subclause (II) or (III) of clause (i).".
3	(b) Amendment of ERISA.—Section 408(d)(2) of the
4	Employee Retirement Income Security Act of 1974 (29
5	$U.S.C.\ 1108(d)(2))$ is amended by adding at the end the
6	following new subparagraph:
7	"(C) For purposes of paragraph (1)(A), the term
8	'owner-employee' shall only include a person described in
9	clause (ii) or (iii) of subparagraph (A).".
10	(c) Effective Date.—The amendments made by this
11	section shall apply to years beginning after December 31,
12	2001.
13	SEC. 203. MODIFICATION OF TOP-HEAVY RULES.
	SEC. 203. MODIFICATION OF TOP-HEAVY RULES. (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
13 14 15	
14	(a) Simplification of Definition of Key Em-
14 15	(a) Simplification of Definition of Key Employee.—
14 15 16	(a) SIMPLIFICATION OF DEFINITION OF KEY EM- PLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining
14 15 16 17	(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended—
14 15 16 17	(a) SIMPLIFICATION OF DEFINITION OF KEY EM- PLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended— (A) by striking "or any of the 4 preceding
114 115 116 117 118	(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended— (A) by striking "or any of the 4 preceding plan years" in the matter preceding clause (i);
14 15 16 17 18 19 20	(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended— (A) by striking "or any of the 4 preceding plan years" in the matter preceding clause (i); (B) by striking clause (i) and inserting the
14 15 16 17 18 19 20 21	(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.— (1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended— (A) by striking "or any of the 4 preceding plan years" in the matter preceding clause (i); (B) by striking clause (i) and inserting the following:

1	(C) by striking clause (ii) and redesig-
2	nating clauses (iii) and (iv) as clauses (ii) and
3	(iii), respectively; and
4	(D) by striking the second sentence in the
5	matter following clause (iii), as redesignated by
6	$subparagraph\ (C).$
7	(2) Conforming amendment.—Section
8	416(i)(1)(B)(iii) is amended by striking "and sub-
9	paragraph (A)(ii)".
10	(b) Matching Contributions Taken Into Account
11	FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section
12	416(c)(2)(A) (relating to defined contribution plans) is
13	amended by adding at the end the following: "Employer
14	matching contributions (as defined in section
15	401(m)(4)(A)) shall be taken into account for purposes of
16	this subparagraph.".
17	(c) Distributions During Last Year Before De-
18	TERMINATION DATE TAKEN INTO ACCOUNT.—
19	(1) In General.—Paragraph (3) of section
20	416(g) is amended to read as follows:
21	"(3) Distributions during last year before
22	DETERMINATION DATE TAKEN INTO ACCOUNT.—
23	"(A) In General.—For purposes of
24	determining—

1	"(i) the present value of the cumulative
2	accrued benefit for any employee, or
3	"(ii) the amount of the account of any
4	employee,
5	such present value or amount shall be increased
6	by the aggregate distributions made with respect
7	to such employee under the plan during the 1-
8	year period ending on the determination date.
9	The preceding sentence shall also apply to dis-
10	tributions under a terminated plan which if it
11	had not been terminated would have been re-
12	quired to be included in an aggregation group.
13	"(B) 5-year period in case of in-serv-
14	ICE DISTRIBUTION.—In the case of any distribu-
15	tion made for a reason other than separation
16	from service, death, or disability, subparagraph
17	(A) shall be applied by substituting '5-year pe-
18	riod' for '1-year period'.".
19	(2) Benefits not taken into account.—Sub-
20	paragraph (E) of section $416(g)(4)$ is amended—
21	(A) by striking "LAST 5 YEARS" in the
22	heading and inserting "LAST YEAR BEFORE DE-
23	TERMINATION DATE"; and
24	(B) by striking "5-year period" and insert-
25	ing "1-year period".

1	(d) Definition of Top-Heavy Plans.—Paragraph
2	(4) of section 416(g) (relating to other special rules for top-
3	heavy plans) is amended by adding at the end the following
4	new subparagraph:
5	"(H) Cash or deferred arrangements
6	USING ALTERNATIVE METHODS OF MEETING NON-
7	DISCRIMINATION REQUIREMENTS.—The term
8	'top-heavy plan' shall not include a plan which
9	consists solely of—
10	"(i) a cash or deferred arrangement
11	which meets the requirements of section
12	401(k)(12), and
13	"(ii) matching contributions with re-
14	spect to which the requirements of section
15	401(m)(11) are met.
16	If, but for this subparagraph, a plan would be
17	treated as a top-heavy plan because it is a mem-
18	ber of an aggregation group which is a top-heavy
19	group, contributions under the plan may be
20	taken into account in determining whether any
21	other plan in the group meets the requirements
22	of subsection $(c)(2)$.".
23	(e) Frozen Plan Exempt From Minimum Benefit
24	Requirement.—Subparagraph (C) of section $416(c)(1)$
25	(relating to defined benefit plans) is amended—

1	(A) by striking "clause (ii)" in clause (i)
2	and inserting "clause (ii) or (iii)"; and
3	(B) by adding at the end the following:
4	"(iii) Exception for frozen
5	PLAN.—For purposes of determining an em-
6	ployee's years of service with the employer,
7	any service with the employer shall be dis-
8	regarded to the extent that such service oc-
9	curs during a plan year when the plan ben-
10	efits (within the meaning of section 410(b))
11	no key employee or former key employee.".
12	(f) Elimination of Family Attribution.—Section
13	416(i)(1)(B) (defining 5-percent owner) is amended by add-
14	ing at the end the following new clause:
15	"(iv) Family attribution dis-
16	REGARDED.—Solely for purposes of apply-
17	ing this paragraph (and not for purposes of
18	any provision of this title which incor-
19	porates by reference the definition of a key
20	employee or 5-percent owner under this
21	paragraph), section 318 shall be applied
22	without regard to subsection (a)(1) thereof
23	in determining whether any person is a 5-
24	percent owner.".

- 1 (g) Effective Date.—The amendments made by this
- 2 section shall apply to years beginning after December 31,
- 3 2001.
- 4 SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-
- 5 COUNT FOR PURPOSES OF DEDUCTION LIM-
- 6 ITS.
- 7 (a) In General.—Section 404 (relating to deduction
- 8 for contributions of an employer to an employees' trust or
- 9 annuity plan and compensation under a deferred payment
- 10 plan) is amended by adding at the end the following new
- 11 *subsection*:
- 12 "(n) Elective Deferrals Not Taken Into Ac-
- 13 Count for Purposes of Deduction Limits.—Elective
- 14 deferrals (as defined in section 402(g)(3)) shall not be sub-
- 15 ject to any limitation contained in paragraph (3), (7), or
- 16 (9) of subsection (a), and such elective deferrals shall not
- 17 be taken into account in applying any such limitation to
- 18 any other contributions.".
- 19 (b) Effective Date.—The amendment made by this
- 20 section shall apply to years beginning after December 31,
- 21 2001.

1	SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR
2	DEFERRED COMPENSATION PLANS OF STATE
3	AND LOCAL GOVERNMENTS AND TAX-EXEMPT
4	ORGANIZATIONS.
5	(a) In General.—Subsection (c) of section 457 (relat-
6	ing to deferred compensation plans of State and local gov-
7	ernments and tax-exempt organizations), as amended by
8	section 201, is amended to read as follows:
9	"(c) Limitation.—The maximum amount of the com-
10	pensation of any one individual which may be deferred
11	under subsection (a) during any taxable year shall not ex-
12	ceed the amount in effect under subsection $(b)(2)(A)$ (as
13	modified by any adjustment provided under subsection
14	(b)(3)).".
15	(b) Effective Date.—The amendment made by sub-
16	section (a) shall apply to years beginning after December
17	31, 2001.
18	SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO
19	IRS REGARDING PENSION PLANS.
20	(a) Elimination of Certain User Fees.—The Sec-
21	retary of the Treasury or the Secretary's delegate shall not
22	require payment of user fees under the program established
23	under section 10511 of the Revenue Act of 1987 for requests
24	to the Internal Revenue Service for determination letters
25	with respect to the qualified status of a pension benefit plan
26	maintained solely by one or more eligible employers or any

1	trust which is part of the plan. The preceding sentence shall
2	not apply to any request—
3	(1) made after the later of—
4	(A) the fifth plan year the pension benefit
5	plan is in existence; or
6	(B) the end of any remedial amendment pe-
7	riod with respect to the plan beginning within
8	the first 5 plan years; or
9	(2) made by the sponsor of any prototype or
10	similar plan which the sponsor intends to market to
11	participating employers.
12	(b) Pension Benefit Plan.—For purposes of this
13	section, the term "pension benefit plan" means a pension,
14	profit-sharing, stock bonus, annuity, or employee stock own-
15	ership plan.
16	(c) Eligible Employer.—For purposes of this sec-
17	tion, the term "eligible employer" has the same meaning
18	given such term in section $408(p)(2)(C)(i)(I)$ of the Internal
19	Revenue Code of 1986. The determination of whether an em-
20	ployer is an eligible employer under this section shall be
21	made as of the date of the request described in subsection
22	(a).
23	(d) Determination of Average Fees Charged.—
24	For purposes of any determination of average fees charged,

1 any request to which subsection (a) applies shall not be taken into account. 3 (e) Effective Date.—The provisions of this section shall apply with respect to requests made after December 5 31, 2001. SEC. 207. DEDUCTION LIMITS. 7 (a) Stock Bonus and Profit Sharing Trusts.— 8 (1) In General.—Subclause (I) of section 9 404(a)(3)(A)(i) (relating to stock bonus and profit 10 sharing trusts) is amended by striking "15 percent" 11 and inserting "20 percent". 12 (2) Conforming amendment.—Subparagraph 13 (C) of section 404(h)(1) is amended by striking "15 14 percent" each place it appears and inserting "20 per-15 cent". 16 (b) Compensation.— 17 (1) In General.—Section 404(a) (relating to 18 general rule) is amended by adding at the end the fol-19 *lowing:* 20 "(12) Definition of compensation.—For pur-21 poses of paragraphs (3), (7), (8), and (9), the term 22 'compensation otherwise paid or accrued during the 23 taxable year' shall include amounts treated as 'par-24 ticipant's compensation' under subparagraph (C) or 25 (D) of section 415(c)(3).".

1	(2) Conforming amendments.—
2	(A) Subparagraph (B) of section $404(a)(3)$
3	is amended by striking the last sentence.
4	(B) Clause (i) of section $4972(c)(6)(B)$ is
5	amended by striking "(within the meaning of
6	section 404(a))" and inserting "(within the
7	meaning of section 404(a) and as adjusted under
8	section $404(a)(12)$)".
9	(c) Effective Date.—The amendments made by this
10	section shall apply to years beginning after December 31,
11	2001.
12	SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS
13	AFTER-TAX CONTRIBUTIONS.
14	(a) In General.—Subpart A of part I of subchapter
- '	
	D of chapter 1 (relating to deferred compensation, etc.) is
15	D of chapter 1 (relating to deferred compensation, etc.) is amended by inserting after section 402 the following new
15	
15 16 17	amended by inserting after section 402 the following new
15 16 17	amended by inserting after section 402 the following new section:
15 16 17 18	amended by inserting after section 402 the following new section: "SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-
15 16 17 18 19	amended by inserting after section 402 the following new section: "SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-RALS AS PLUS CONTRIBUTIONS.
15 16 17 18 19 20	amended by inserting after section 402 the following new section: "SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-RALS AS PLUS CONTRIBUTIONS. "(a) GENERAL RULE.—If an applicable retirement
15 16 17 18 19 20 21	amended by inserting after section 402 the following new section: "SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-RALS AS PLUS CONTRIBUTIONS. "(a) GENERAL RULE.—If an applicable retirement plan includes a qualified plus contribution program—

1	cept that such contribution shall not be excludable
2	from gross income, and
3	"(2) such plan (and any arrangement which is
4	part of such plan) shall not be treated as failing to
5	meet any requirement of this chapter solely by reason
6	of including such program.
7	"(b) Qualified Plus Contribution Program.—
8	For purposes of this section—
9	"(1) In general.—The term 'qualified plus con-
10	tribution program' means a program under which an
11	employee may elect to make designated plus contribu-
12	tions in lieu of all or a portion of elective deferrals
13	the employee is otherwise eligible to make under the
14	applicable retirement plan.
15	"(2) Separate accounting required.—A pro-
16	gram shall not be treated as a qualified plus contribu-
17	tion program unless the applicable retirement plan—
18	"(A) establishes separate accounts ('des-
19	ignated plus accounts') for the designated plus
20	contributions of each employee and any earnings
21	properly allocable to the contributions, and
22	"(B) maintains separate recordkeeping with
23	respect to each account.

1	"(c) Definitions and Rules Relating to Des-
2	IGNATED PLUS CONTRIBUTIONS.—For purposes of this
3	section—
4	"(1) Designated Plus contribution.—The
5	term 'designated plus contribution' means any elec-
6	tive deferral which—
7	"(A) is excludable from gross income of an
8	employee without regard to this section, and
9	"(B) the employee designates (at such time
10	and in such manner as the Secretary may pre-
11	scribe) as not being so excludable.
12	"(2) Designation limits.—The amount of elec-
13	tive deferrals which an employee may designate under
14	paragraph (1) shall not exceed the excess (if any) of—
15	"(A) the maximum amount of elective defer-
16	rals excludable from gross income of the employee
17	for the taxable year (without regard to this sec-
18	tion), over
19	"(B) the aggregate amount of elective defer-
20	rals of the employee for the taxable year which
21	the employee does not designate under paragraph
22	(1).
23	"(3) Rollover contributions.—
24	"(A) In general.—A rollover contribution
25	of any payment or distribution from a des-

1	ignated plus account which is otherwise allow-
2	able under this chapter may be made only if the
3	contribution is to—
4	"(i) another designated plus account of
5	the individual from whose account the pay-
6	ment or distribution was made, or
7	"(ii) a Roth IRA of such individual.
8	"(B) Coordination with limit.—Any
9	rollover contribution to a designated plus ac-
10	count under subparagraph (A) shall not be taken
11	into account for purposes of paragraph (1).
12	"(d) Distribution Rules.—For purposes of this
13	title—
14	"(1) Exclusion.—Any qualified distribution
15	from a designated plus account shall not be includible
16	in gross income.
17	"(2) Qualified distribution.—For purposes
18	of this subsection—
19	"(A) In General.—The term 'qualified dis-
20	tribution' has the meaning given such term by
21	section $408A(d)(2)(A)$ (without regard to clause
22	(iv) thereof).
23	"(B) Distributions within nonexclu-
24	SION PERIOD.—A payment or distribution from
25	a designated plus account shall not be treated as

1	a qualified distribution if such payment or dis-
2	tribution is made within the 5-taxable-year pe-
3	riod beginning with the earlier of—
4	"(i) the first taxable year for which the
5	individual made a designated plus con-
6	tribution to any designated plus account es-
7	tablished for such individual under the
8	same applicable retirement plan, or
9	"(ii) if a rollover contribution was
10	made to such designated plus account from
11	a designated plus account previously estab-
12	lished for such individual under another
13	applicable retirement plan, the first taxable
14	year for which the individual made a des-
15	ignated plus contribution to such previously
16	$established\ account.$
17	"(C) Distributions of excess defer-
18	RALS AND CONTRIBUTIONS AND EARNINGS
19	Thereon.—The term 'qualified distribution'
20	shall not include any distribution of an excess
21	deferral under section $402(g)(2)$ or any excess
22	$contribution \ under \ section \ 401(k)(8), \ and \ any$
23	income on the excess deferral or contribution.
24	"(3) Treatment of distributions of certain
25	Excess deferrals.—Notwithstanding section 72, if

1	any excess deferral under section $402(g)(2)$ attrib-
2	utable to a designated plus contribution is not dis-
3	tributed on or before the 1st April 15 following the
4	close of the taxable year in which such excess deferral
5	is made, the amount of such excess deferral shall—
6	"(A) not be treated as investment in the
7	contract, and
8	"(B) be included in gross income for the
9	taxable year in which such excess is distributed.
10	"(4) Aggregation rules.—Section 72 shall be
11	applied separately with respect to distributions and
12	payments from a designated plus account and other
13	distributions and payments from the plan.
14	"(e) Other Definitions.—For purposes of this
15	section—
16	"(1) Applicable retirement plan.—The term
17	'applicable retirement plan' means—
18	"(A) an employees' trust described in sec-
19	tion 401(a) which is exempt from tax under sec-
20	tion 501(a), and
21	"(B) a plan under which amounts are con-
22	tributed by an individual's employer for an an-
23	nuity contract described in section 403(b).

1	"(2) Elective deferral.—The term 'elective
2	deferral' means any elective deferral described in sub-
3	paragraph (A) or (C) of section $402(g)(3)$.".
4	(b) Excess Deferrals.—Section 402(g) (relating to
5	limitation on exclusion for elective deferrals) is amended—
6	(1) by adding at the end of paragraph (1)(A) (as
7	added by section $201(d)(1)$) the following new sen-
8	tence: "The preceding sentence shall not apply to so
9	much of such excess as does not exceed the designated
10	plus contributions of the individual for the taxable
11	year."; and
12	(2) by inserting "(or would be included but for
13	the last sentence thereof)" after "paragraph (1)" in
14	paragraph (2)(A).
15	(c) Rollovers.—Subparagraph (B) of section
16	402(c)(8) is amended by adding at the end the following:
17	"If any portion of an eligible rollover distribu-
18	tion is attributable to payments or distributions
19	from a designated plus account (as defined in
20	section 402A), an eligible retirement plan with
21	respect to such portion shall include only another
22	designated plus account and a Roth IRA.".
23	(d) Reporting Requirements.—
24	(1) W-2 information.—Section 6051(a)(8) is
25	amended by inserting ", including the amount of des-

1	ignated plus contributions (as defined in section
2	402A)" before the comma at the end.
3	(2) Information.—Section 6047 is amended by
4	redesignating subsection (f) as subsection (g) and by
5	inserting after subsection (e) the following new sub-
6	section:
7	"(f) Designated Plus Contributions.—The Sec-
8	retary shall require the plan administrator of each applica-
9	ble retirement plan (as defined in section 402A) to make
10	such returns and reports regarding designated plus con-
11	tributions (as so defined) to the Secretary, participants and
12	beneficiaries of the plan, and such other persons as the Sec-
13	retary may prescribe.".
14	(e) Conforming Amendments.—
15	(1) Section 408A(e) is amended by adding after
16	the first sentence the following new sentence: "Such
17	term includes a rollover contribution described in sec-
18	$tion \ 402A(c)(3)(A)$.".
19	(2) The table of sections for subpart A of part I
20	of subchapter D of chapter 1 is amended by inserting
21	after the item relating to section 402 the following
22	new item:

"Sec. 402A. Optional treatment of elective deferrals as plus contributions.".

- 1 (f) Effective Date.—The amendments made by this
- 2 section shall apply to taxable years beginning after Decem-
- 3 ber 31, 2001.
- 4 SEC. 209. AVAILABILITY OF QUALIFIED PLANS TO SELF-EM-
- 5 PLOYED INDIVIDUALS WHO ARE EXEMPT
- 6 FROM THE SELF-EMPLOYMENT TAX BY REA-
- 7 SON OF THEIR RELIGIOUS BELIEFS.
- 8 (a) In General.—Subparagraph (A) of section
- 9 401(c)(2) (defining earned income) is amended by adding
- 10 at the end thereof the following new sentence: "For purposes
- 11 of this part only (other than sections 419 and 419A), this
- 12 subparagraph shall be applied as if the term 'trade or busi-
- 13 ness' for purposes of section 1402 included service described
- 14 in section 1402(c)(6).".
- 15 (b) Simple Retirement Accounts.—Clause (ii) of
- 16 section 408(p)(6)(A) (defining self-employed) is amended by
- 17 adding at the end the following new sentence: "The pre-
- 18 ceding sentence shall be applied as if the term 'trade or
- 19 business' for purposes of section 1402 included service de-
- 20 scribed in section 1402(c)(6).".
- 21 (c) Effective Date.—The amendments made by this
- 22 section shall apply to taxable years beginning after Decem-
- 23 ber 31, 2001.

1	SEC. 210. CERTAIN NONRESIDENT ALIENS EXCLUDED IN
2	APPLYING MINIMUM COVERAGE REQUIRE-
3	MENTS.
4	(a) In General.—Subparagraph (C) of section
5	410(b)(3) (relating to exclusion of certain employees) is
6	amended by inserting ", determined without regard to the
7	reference to subchapter D in the last sentence thereof" after
8	"section $861(a)(3)$ ".
9	(b) Effective Date.—The amendment made by sub-
10	section (a) shall apply to plan years beginning after Decem-
11	ber 31, 2001.
12	TITLE III—ENHANCING
13	FAIRNESS FOR WOMEN
14	SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS
15	AGE 50 OR OVER.
16	(a) In General.—Section 414 (relating to definitions
17	and special rules) is amended by adding at the end the fol-
18	lowing new subsection:
19	"(v) Catch-up Contributions for Individuals
20	Age 50 or Over.—
21	"(1) In general.—An applicable employer plan
22	shall not be treated as failing to meet any require-
23	ment of this title solely because the plan permits an
24	eligible participant to make additional elective defer-
25	rals in any plan year.

1	"(2) Limitation on amount of additional
2	Deferrals.—A plan shall not permit additional
3	elective deferrals under paragraph (1) for any year in
4	an amount greater than the lesser of—
5	"(A) \$5,000, or
6	"(B) the excess (if any) of—
7	"(i) the participant's compensation for
8	the year, over
9	"(ii) any other elective deferrals of the
10	participant for such year which are made
11	without regard to this subsection.
12	"(3) Treatment of contributions.—In the
13	case of any contribution to a plan under paragraph
14	(1), such contribution shall not, with respect to the
15	year in which the contribution is made—
16	"(A) be subject to any otherwise applicable
17	limitation contained in section 402(g),
18	402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii), 415,
19	$or\ 457,\ or$
20	"(B) be taken into account in applying such
21	limitations to other contributions or benefits
22	under such plan or any other such plan.
23	"(4) Application of nondiscrimination
24	RULES.—

1	"(A) IN GENERAL.—An applicable employer
2	plan shall not be treated as failing to meet the
3	nondiscrimination requirements under section
4	401(a)(4) with respect to benefits, rights, and
5	features if the plan allows all eligible partici-
6	pants to make the same election with respect to
7	the additional elective deferrals under this sub-
8	section.
9	"(B) Aggregation.—For purposes of sub-
10	paragraph (A), all plans maintained by employ-
11	ers who are treated as a single employer under
12	subsection (b), (c), (m), or (o) of section 414
13	shall be treated as 1 plan.
14	"(5) Eligible participant.—For purposes of
15	this subsection, the term 'eligible participant' means,
16	with respect to any plan year, a participant in a
17	plan—
18	"(A) who has attained the age of 50 before
19	the close of the plan year, and
20	"(B) with respect to whom no other elective
21	deferrals may (without regard to this subsection)
22	be made to the plan for the plan year by reason
23	of the application of any limitation or other re-
24	striction described in paragraph (3) or com-

1	parable limitation contained in the terms of the
2	plan.
3	"(6) Other definitions and rules.—For
4	purposes of this subsection—
5	"(A) APPLICABLE EMPLOYER PLAN.—The
6	term 'applicable employer plan' means—
7	"(i) an employees' trust described in
8	section 401(a) which is exempt from tax
9	$under\ section\ 501(a),$
10	"(ii) a plan under which amounts are
11	contributed by an individual's employer for
12	an annuity contract described in section
13	403(b),
14	"(iii) an eligible deferred compensation
15	plan under section 457 of an eligible em-
16	ployer as defined in section $457(e)(1)(A)$,
17	and
18	"(iv) an arrangement meeting the re-
19	quirements of section 408 (k) or (p).
20	"(B) Elective deferral.—The term 'elec-
21	tive deferral' has the meaning given such term
22	by subsection $(u)(2)(C)$.
23	"(C) Exception for section 457 plans.—
24	This subsection shall not apply to an applicable
25	employer plan described in subparagraph

1	(A)(iii) for any year to which section $457(b)(3)$
2	applies.
3	"(D) Cost-of-living adjustment.—In the
4	case of a year beginning after December 31,
5	2006, the Secretary shall adjust annually the
6	\$5,000 amount in paragraph (2)(A) for increases
7	in the cost-of-living at the same time and in the
8	same manner as adjustments under section
9	415(d); except that the base period taken into ac-
10	count shall be the calendar quarter beginning
11	July 1, 2005, and any increase under this sub-
12	paragraph which is not a multiple of \$500 shall
13	be rounded to the next lower multiple of \$500.".
14	(b) Effective Date.—The amendment made by this
15	section shall apply to contributions in taxable years begin-
16	ning after December 31, 2001.
17	SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF
18	EMPLOYEES TO DEFINED CONTRIBUTION
19	PLANS.
20	(a) Equitable Treatment.—
21	(1) In General.—Subparagraph (B) of section
22	415(c)(1) (relating to limitation for defined contribu-
23	tion plans) is amended by striking "25 percent" and
24	inserting "100 percent".

1	(2) Application to section 403(b).—Section
2	403(b) is amended—
3	(A) by striking "the exclusion allowance for
4	such taxable year" in paragraph (1) and insert-
5	ing "the applicable limit under section 415";
6	(B) by striking paragraph (2); and
7	(C) by inserting "or any amount received
8	by a former employee after the fifth taxable year
9	following the taxable year in which such em-
10	ployee was terminated" before the period at the
11	end of the second sentence of paragraph (3).
12	(3) Conforming amendments.—
13	(A) Subsection (f) of section 72 is amended
14	by striking "section 403(b)(2)(D)(iii))" and in-
15	serting "section $403(b)(2)(D)(iii)$, as in effect be-
16	fore the enactment of the Comprehensive Retire-
17	ment Security and Pension Reform Act of
18	2001)".
19	(B) Section $404(a)(10)(B)$ is amended by
20	striking ", the exclusion allowance under section
21	403(b)(2),".
22	(C) Section 404(j) is amended by adding at
23	the end the following new paragraph:
24	"(3) Special rule for money purchase
25	PLANS.—For purposes of paragraph (1)(B), in the

1	case of a defined contribution plan which is subject
2	to the funding standards of section 412, section
3	415(c)(1)(B) shall be applied by substituting '25 per-
4	cent' for '100 percent'.".
5	(D) Section 415(a)(2) is amended by strik-
6	ing ", and the amount of the contribution for
7	such portion shall reduce the exclusion allowance
8	as provided in section 403(b)(2)".
9	(E) Section 415(c)(3) is amended by adding
10	at the end the following new subparagraph:
11	"(E) Annuity contracts.—In the case of
12	an annuity contract described in section 403(b),
13	the term 'participant's compensation' means the
14	participant's includible compensation deter-
15	$mined\ under\ section\ 403(b)(3)$.".
16	(F) Section 415(c) is amended by striking
17	paragraph (4).
18	(G) Section $415(c)(7)$ is amended to read as
19	follows:
20	"(7) CERTAIN CONTRIBUTIONS BY CHURCH
21	PLANS NOT TREATED AS EXCEEDING LIMIT.—
22	"(A) In general.—Notwithstanding any
23	other provision of this subsection, at the election
24	of a participant who is an employee of a church
25	or a convention or association of churches, in-

cluding an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

- "(B) \$40,000 AGGREGATE LIMITATION.—
 The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed \$40,000.
- "(C) Annual addition.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).".
- (H) Subparagraph (B) of section 402(g)(7) (as redesignated by section 201) is amended by inserting before the period at the end the following: "(as in effect before the enactment of the Comprehensive Retirement Security and Pension Reform Act of 2001)".
- 24 (I) Section 664(g) is amended—

1	(i) in paragraph $(3)(E)$ by striking
2	"limitations under section 415(c)" and in-
3	serting "applicable limitation under para-
4	graph (7)", and
5	(ii) by adding at the end the following
6	new paragraph:
7	"(7) Applicable limitation.—
8	"(A) In general.—For purposes of para-
9	graph (3)(E), the applicable limitation under
10	this paragraph with respect to a participant is
11	an amount equal to the lesser of—
12	"(i) \$30,000, or
13	"(ii) 25 percent of the participant's
14	compensation (as defined in section
15	415(c)(3)).
16	"(B) Cost-of-living adjustment.—The
17	Secretary shall adjust annually the \$30,000
18	amount under subparagraph $(A)(i)$ at the same
19	time and in the same manner as under section
20	415(d), except that the base period shall be the
21	calendar quarter beginning October 1, 1993, and
22	any increase under this subparagraph which is
23	not a multiple of \$5,000 shall be rounded to the
24	next lowest multiple of \$5,000.".

1	(4) Effective date.—The amendments made
2	by this subsection shall apply to years beginning after
3	December 31, 2001.
4	(b) Special Rules for Sections 403(b) and 408.—
5	(1) In general.—Subsection (k) of section 415
6	is amended by adding at the end the following new
7	paragraph:
8	"(4) Special rules for sections 403(b) and
9	408.—For purposes of this section, any annuity con-
10	tract described in section 403(b) for the benefit of a
11	participant shall be treated as a defined contribution
12	plan maintained by each employer with respect to
13	which the participant has the control required under
14	subsection (b) or (c) of section 414 (as modified by
15	subsection (h)). For purposes of this section, any con-
16	tribution by an employer to a simplified employee
17	pension plan for an individual for a taxable year
18	shall be treated as an employer contribution to a de-
19	fined contribution plan for such individual for such
20	year.".
21	(2) Effective date.—
22	(A) In General.—The amendment made
23	by paragraph (1) shall apply to limitation years

beginning after December 31, 1999.

- 1 (B) Exclusion allowance.—Effective for 2 limitation years beginning in 2000, in the case 3 of any annuity contract described in section 4 403(b) of the Internal Revenue Code of 1986, the 5 amount of the contribution disqualified by rea-6 son of section 415(g) of such Code shall reduce 7 the exclusion allowance as provided in section 8 403(b)(2) of such Code.
- 9 (3) Modification of 403(b) exclusion allow-10 ANCE TO CONFORM TO 415 MODIFICATION.—The Sec-11 retary of the Treasury shall modify the regulations re-12 garding the exclusion allowance under section 13 403(b)(2) of the Internal Revenue Code of 1986 to 14 render void the requirement that contributions to a 15 defined benefit pension plan be treated as previously 16 excluded amounts for purposes of the exclusion allow-17 ance. For taxable years beginning after December 31, 18 1999, such regulations shall be applied as if such re-19 quirement were void.
- 20 (c) Deferred Compensation Plans of State and 21 Local Governments and Tax-Exempt Organiza-22 tions.—
- 23 (1) In General.—Subparagraph (B) of section 24 457(b)(2) (relating to salary limitation on eligible de-

1	ferred compensation plans) is amended by striking
2	"33½ percent" and inserting "100 percent".
3	(2) Effective date.—The amendment made by
4	this subsection shall apply to years beginning after
5	December 31, 2001.
6	SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER MATCH-
7	ING CONTRIBUTIONS.
8	(a) Amendment of Internal Revenue Code.—Sec-
9	tion 411(a) (relating to minimum vesting standards) is
10	amended—
11	(1) in paragraph (2) in the matter preceding
12	subparagraph (A), by striking "A plan" and insert-
13	ing "Except as provided in paragraph (12), a plan";
14	and
15	(2) by adding at the end the following:
16	"(12) Faster vesting for matching con-
17	TRIBUTIONS.—In the case of matching contributions
18	(as defined in section $401(m)(4)(A)$), paragraph (2)
19	shall be applied—
20	"(A) by substituting '3 years' for '5 years'
21	in subparagraph (A), and
22	"(B) by substituting the following table for
23	the table contained in subparagraph (B):
	The nonforfeitable "Years of service: percentage is: 2
	3

	5	
1	(b) Amendment of ERISA.—Section 203(a) of the	
2	Employee Retirement Income Security Act of 1974 (29	
3	U.S.C. 1053(a)) is amended—	
4	(1) in paragraph (2), by striking "A plan" and	
5	inserting "Except as provided in paragraph (4), a	
6	plan", and	
7	(2) by adding at the end the following:	
8	"(4) In the case of matching contributions (as	
9	defined in section $401(m)(4)(A)$ of the Internal Rev-	
10	enue Code of 1986), paragraph (2) shall be applied—	
11	"(A) by substituting '3 years' for '5 years'	
12	in subparagraph (A), and	
13	"(B) by substituting the following table for	
14	the table contained in subparagraph (B):	
	The nonforfeitable "Years of service: percentage is: 2 20 3 40 4 60 5 80 6 100."	
15	(c) Effective Dates.—	
16	(1) In general.—Except as provided in para-	
17	graph (2), the amendments made by this section shall	
18	apply to contributions for plan years beginning after	
19	December 31, 2001.	
20	(2) Collective Bargaining agreements.—In	
21	the case of a plan maintained pursuant to one or	

1 more collective bargaining agreements between em-2 ployee representatives and one or more employers 3 ratified by the date of the enactment of this Act, the 4 amendments made by this section shall not apply to contributions on behalf of employees covered by any 5 6 such agreement for plan years beginning before the 7 earlier of— (A) the later of— 8 9 (i) the date on which the last of such 10 collective bargaining agreements terminates 11 (determined without regard to any exten-12 sion thereof on or after such date of the en-13 actment); or 14 (ii) January 1, 2002; or 15 (B) January 1, 2006. 16 (3) Service required.—With respect to any 17 plan, the amendments made by this section shall not 18 apply to any employee before the date that such em-19 ployee has 1 hour of service under such plan in any 20 plan year to which the amendments made by this sec-21 tion apply. 22 SEC. 304. MODIFICATIONS TO MINIMUM DISTRIBUTION 23 RULES. 24 (a) Life Expectancy Tables.—The Secretary of the Treasury shall modify the life expectancy tables under the

1	regulations relating to minimum distribution requirements
2	under sections $401(a)(9)$, $408(a)(6)$ and $(b)(3)$, $403(b)(10)$,
3	and 457(d)(2) of the Internal Revenue Code to reflect cur-
4	rent life expectancy.
5	(b) Repeal of Rule Where Distributions Had
6	Begun Before Death Occurs.—
7	(1) In general.—Subparagraph (B) of section
8	401(a)(9) is amended by striking clause (i) and redes-
9	ignating clauses (ii), (iii), and (iv) as clauses (i),
10	(ii), and (iii), respectively.
11	(2) Conforming Changes.—
12	(A) Clause (i) of section $401(a)(9)(B)$ (as so
13	redesignated) is amended—
14	(i) by striking "FOR OTHER CASES" in
15	the heading; and
16	(ii) by striking "the distribution of the
17	employee's interest has begun in accordance
18	with subparagraph (A)(ii)" and inserting
19	"his entire interest has been distributed to
20	him".
21	(B) Clause (ii) of section $401(a)(9)(B)$ (as
22	so redesignated) is amended by striking "clause
23	(ii)" and inserting "clause (i)".
24	(C) Clause (iii) of section $401(a)(9)(B)$ (as
25	so redesignated) is amended—

1	(i) by striking "clause (iii)(I)" and in-
2	$serting\ "clause\ (ii)(I)";$
3	(ii) by striking "clause (iii)(III)" in
4	subclause (I) and inserting "clause
5	(ii)(III)";
6	(iii) by striking "the date on which the
7	employee would have attained age 70½," in
8	subclause (I) and inserting "April 1 of the
9	calendar year following the calendar year
10	in which the spouse attains 70½,"; and
11	(iv) by striking "the distributions to
12	such spouse begin," in subclause (II) and
13	inserting 'his entire interest has been dis-
14	tributed to him,".
15	(3) Effective date.—
16	(A) In general.—Except as provided in
17	subparagraph (B), the amendments made by this
18	subsection shall apply to years beginning after
19	December 31, 2001.
20	(B) Distributions to surviving
21	SPOUSE.—
22	(i) In general.—In the case of an
23	employee described in clause (ii), distribu-
24	tions to the surviving spouse of the employee
25	shall not be required to commence prior to

1	the date on which such distributions would
2	have been required to begin under section
3	401(a)(9)(B) of the Internal Revenue Code
4	of 1986 (as in effect on the day before the
5	date of the enactment of this Act).
6	(ii) Certain employees.—An em-
7	ployee is described in this clause if such em-
8	ployee dies before—
9	(I) the date of the enactment of
10	this Act, and
11	(II) the required beginning date
12	(within the meaning of section
13	401(a)(9)(C) of the Internal Revenue
14	Code of 1986) of the employee.
15	(c) Reduction in Excise Tax.—
16	(1) In general.—Subsection (a) of section 4974
17	is amended by striking "50 percent" and inserting
18	"10 percent".
19	(2) Effective date.—The amendment made by
20	this subsection shall apply to years beginning after
21	December 31, 2001.

1	SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION
2	OF SECTION 457 PLAN BENEFITS UPON DI-
3	VORCE.
4	(a) In General.—Section 414(p)(11) (relating to ap-
5	plication of rules to governmental and church plans) is
6	amended—
7	(1) by inserting "or an eligible deferred com-
8	pensation plan (within the meaning of section
9	457(b))" after "subsection (e))"; and
10	(2) in the heading, by striking "GOVERNMENTAL
11	AND CHURCH PLANS" and inserting "CERTAIN OTHER
12	PLANS''.
13	(b) Waiver of Certain Distribution Require-
14	MENTS.—Paragraph (10) of section 414(p) is amended by
15	striking "and section 409(d)" and inserting "section
16	409(d), and section 457(d)".
17	(c) Tax Treatment of Payments From a Section
18	457 Plan.—Subsection (p) of section 414 is amended by
19	redesignating paragraph (12) as paragraph (13) and in-
20	serting after paragraph (11) the following new paragraph:
21	"(12) Tax treatment of payments from a
22	SECTION 457 PLAN.—If a distribution or payment
23	from an eligible deferred compensation plan described
24	in section 457(b) is made pursuant to a qualified do-
25	mestic relations order, rules similar to the rules of

1	section 402(e)(1)(A) shall apply to such distribution
2	or payment.".
3	(d) Effective Date.—The amendments made by this
4	section shall apply to transfers, distributions, and pay-
5	ments made after December 31, 2001.
6	SEC. 306. PROVISIONS RELATING TO HARDSHIP DISTRIBU-
7	TIONS.
8	(a) Safe Harbor Relief.—
9	(1) In General.—The Secretary of the Treasury
10	shall revise the regulations relating to hardship dis-
11	tributions under section $401(k)(2)(B)(i)(IV)$ of the In-
12	ternal Revenue Code of 1986 to provide that the pe-
13	riod an employee is prohibited from making elective
14	and employee contributions in order for a distribu-
15	tion to be deemed necessary to satisfy financial need
16	shall be equal to 6 months.
17	(2) Effective date.—The revised regulations
18	under this subsection shall apply to years beginning
19	after December 31, 2001.
20	(b) Hardship Distributions Not Treated as Eli-
21	GIBLE ROLLOVER DISTRIBUTIONS.—
22	(1) Modification of definition of eligible
23	ROLLOVER.—Subparagraph (C) of section $402(c)(4)$
24	(relating to eligible rollover distribution) is amended
25	to read as follows:

1	"(C) any distribution which is made upon
2	hardship of the employee.".
3	(2) Effective date.—The amendment made by
4	this subsection shall apply to distributions made after
5	December 31, 2001.
6	SEC. 307. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBU-
7	TIONS FOR DOMESTIC OR SIMILAR WORKERS.
8	(a) In General.—Section 4972(c)(6) (relating to ex-
9	ceptions to nondeductible contributions), as amended by sec-
10	tion 502, is amended by striking "and" at the end of sub-
11	paragraph (A), by striking the period and inserting ", and"
12	at the end of subparagraph (B), and by inserting after sub-
13	paragraph (B) the following new subparagraph:
14	"(C) so much of the contributions to a sim-
15	ple retirement account (within the meaning of
16	section 408(p)) or a simple plan (within the
17	meaning of section 401(k)(11)) which are not de-
18	ductible when contributed solely because such
19	contributions are not made in connection with a
20	trade or business of the employer."
21	(b) Exclusion of Certain Contributions.—Sec-
22	tion 4972(c)(6) is amended by adding at the end the fol-
23	lowing new sentence: "Subparagraph (C) shall not apply
24	to contributions made on behalf of the employer or a mem-

1	ber of the employer's family (as defined in section
2	447(e)(1)).".
3	(c) NO INFERENCE.—Nothing in the amendments
4	made by this section shall be construed to infer the proper
5	treatment of nondeductible contributions under the laws in
6	effect before such amendments.
7	(d) Effective Date.—The amendments made by this
8	section shall apply to taxable years beginning after Decem-
9	ber 31, 2001.
10	TITLE IV—INCREASING PORT-
11	ABILITY FOR PARTICIPANTS
12	SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF
13	PLANS.
14	(a) Rollovers From and to Section 457 Plans.—
15	(1) Rollovers from Section 457 Plans.—
16	(A) In General.—Section 457(e) (relating
17	to other definitions and special rules) is amend-
18	ed by adding at the end the following:
19	"(16) ROLLOVER AMOUNTS.—
20	"(A) GENERAL RULE.—In the case of an el-
21	igible deferred compensation plan established
22	and maintained by an employer described in
23	subsection (e)(1)(A), if—
24	"(i) any portion of the balance to the
25	credit of an employee in such plan is paid

1	to such employee in an eligible rollover dis-
2	tribution (within the meaning of section
3	402(c)(4) without regard to subparagraph
4	(C) thereof),
5	"(ii) the employee transfers any por-
6	tion of the property such employee receives
7	in such distribution to an eligible retire-
8	ment plan described in section $402(c)(8)(B)$,
9	and
10	"(iii) in the case of a distribution of
11	property other than money, the amount so
12	transferred consists of the property distrib-
13	uted,
14	then such distribution (to the extent so trans-
15	ferred) shall not be includible in gross income for
16	the taxable year in which paid.
17	"(B) CERTAIN RULES MADE APPLICABLE.—
18	The rules of paragraphs (2) through (7) (other
19	than paragraph $(4)(C)$) and (9) of section $402(c)$
20	and section 402(f) shall apply for purposes of
21	subparagraph (A).
22	"(C) Reporting.—Rollovers under this
23	paragraph shall be reported to the Secretary in
24	the same manner as rollovers from qualified re-
25	tirement plans (as defined in section 4974(c)).".

1	(B) Deferral limit determined with-
2	OUT REGARD TO ROLLOVER AMOUNTS.—Section
3	457(b)(2) (defining eligible deferred compensa-
4	tion plan) is amended by inserting "(other than
5	rollover amounts)" after "taxable year".
6	(C) Direct rollover.—Paragraph (1) of
7	section 457(d) is amended by striking "and" at
8	the end of subparagraph (A), by striking the pe-
9	riod at the end of subparagraph (B) and insert-
10	ing ", and", and by inserting after subpara-
11	graph (B) the following:
12	"(C) in the case of a plan maintained by
13	an employer described in subsection $(e)(1)(A)$,
14	the plan meets requirements similar to the re-
15	quirements of section $401(a)(31)$.
16	Any amount transferred in a direct trustee-to-trustee
17	$transfer \ in \ accordance \ with \ section \ 401(a)(31) \ shall$
18	not be includible in gross income for the taxable year
19	of transfer.".
20	(D) Withholding.—
21	(i) Paragraph (12) of section 3401(a)
22	is amended by adding at the end the fol-
23	lowing:
24	"(E) under or to an eligible deferred com-
25	pensation plan which, at the time of such pay-

1	ment, is a plan described in section 457(b)
2	maintained by an employer described in section
3	457(e)(1)(A); or".
4	(ii) Paragraph (3) of section 3405(c) is
5	amended to read as follows:
6	"(3) Eligible rollover distribution.—For
7	purposes of this subsection, the term 'eligible rollover
8	distribution' has the meaning given such term by sec-
9	$tion \ 402(f)(2)(A)$.".
10	(iii) Liability for withholding.—
11	Subparagraph (B) of section $3405(d)(2)$ is
12	amended by striking "or" at the end of
13	clause (ii), by striking the period at the end
14	of clause (iii) and inserting ", or", and by
15	adding at the end the following:
16	"(iv) section 457(b) and which is
17	maintained by an eligible employer de-
18	scribed in section $457(e)(1)(A)$.".
19	(2) Rollovers to Section 457 Plans.—
20	(A) In General.—Section $402(c)(8)(B)$
21	(defining eligible retirement plan) is amended by
22	striking "and" at the end of clause (iii), by
23	striking the period at the end of clause (iv) and
24	inserting ", and", and by inserting after clause
25	(iv) the following new clause:

1	"(v) an eligible deferred compensation
2	plan described in section 457(b) which is
3	maintained by an eligible employer de-
4	scribed in section $457(e)(1)(A)$.".
5	(B) Separate accounting.—Section
6	402(c) is amended by adding at the end the fol-
7	lowing new paragraph:
8	"(10) Separate accounting.—Unless a plan
9	described in clause (v) of paragraph (8)(B) agrees to
10	separately account for amounts rolled into such plan
11	from eligible retirement plans not described in such
12	clause, the plan described in such clause may not ac-
13	cept transfers or rollovers from such retirement
14	plans.".
15	(C) 10 percent additional tax.—Sub-
16	section (t) of section 72 (relating to 10-percent
17	additional tax on early distributions from quali-
18	fied retirement plans) is amended by adding at
19	the end the following new paragraph:
20	"(9) Special rule for rollovers to section
21	457 PLANS.—For purposes of this subsection, a dis-
22	tribution from an eligible deferred compensation plan
23	(as defined in section 457(b)) of an eligible employer
24	described in section $457(e)(1)(A)$ shall be treated as a
25	distribution from a qualified retirement plan de-

1 scribed in section 4974(c)(1) to the extent that such 2 distribution is attributable to an amount transferred to an eligible deferred compensation plan from a 3 4 qualified retirement plan (as defined in section 5 4974(c)).". 6 (b) Allowance of Rollovers From and to 403(b) PLANS.— 7 8 (1) ROLLOVERS FROM SECTION 403(b) PLANS.— 9 Section 403(b)(8)(A)(ii)(relating torollover 10 amounts) is amended by striking "such distribution" 11 and all that follows and inserting "such distribution 12 to an eligible retirement plan described in section 13 402(c)(8)(B), and". 14 (2) ROLLOVERS TO SECTION 403(b) PLANS.—Sec-15 tion 402(c)(8)(B) (defining eligible retirement plan), 16 as amended by subsection (a), is amended by striking 17 "and" at the end of clause (iv), by striking the period 18 at the end of clause (v) and inserting ", and", and 19 by inserting after clause (v) the following new clause: 20 "(vi) an annuity contract described in 21 section 403(b).". 22 (c) Expanded Explanation to Recipients of 23 Rollover Distributions.—Paragraph (1) of section

402(f) (relating to written explanation to recipients of dis-

tributions eligible for rollover treatment) is amended by

striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new sub-3 4 paragraph: "(E) of the provisions under which distribu-5 6 tions from the eligible retirement plan receiving 7 the distribution may be subject to restrictions 8 and tax consequences which are different from 9 those applicable to distributions from the plan 10 making such distribution.". 11 (d) Spousal Rollovers.—Section 402(c)(9) (relat-12 ing to rollover where spouse receives distribution after death of employee) is amended by striking "; except that" and 13 all that follows up to the end period. 14 15 (e) Conforming Amendments.— 16 (1) Section 72(0)(4) is amended by striking "and 17 408(d)(3)" and inserting "403(b)(8), 408(d)(3), and 18 457(e)(16)". 19 (2) Section 219(d)(2) is amended by striking "or 20 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)". 21 (3) Section 401(a)(31)(B) is amended by strik-22 ing "and 403(a)(4)" and inserting ", 403(a)(4), 23 403(b)(8), and 457(e)(16)". 24 (4) Subparagraph (A) of section 402(f)(2) is 25 amended by striking "or paragraph (4) of section

1	403(a)" and inserting ", paragraph (4) of section
2	403(a), subparagraph (A) of section 403(b)(8), or sub-
3	paragraph (A) of section 457(e)(16)".
4	(5) Paragraph (1) of section 402(f) is amended
5	by striking "from an eligible retirement plan".
6	(6) Subparagraphs (A) and (B) of section
7	402(f)(1) are amended by striking "another eligible
8	retirement plan" and inserting "an eligible retire-
9	ment plan".
10	(7) Subparagraph (B) of section 403(b)(8) is
11	amended to read as follows:
12	"(B) CERTAIN RULES MADE APPLICABLE.—
13	The rules of paragraphs (2) through (7) and (9)
14	of section 402(c) and section 402(f) shall apply
15	for purposes of subparagraph (A), except that
16	section 402(f) shall be applied to the payor in
17	lieu of the plan administrator.".
18	(8) Section 408(a)(1) is amended by striking "or
19	403(b)(8)," and inserting "403(b)(8), or 457(e)(16)".
20	(9) Subparagraphs (A) and (B) of section
21	415(b)(2) are each amended by striking "and
22	408(d)(3)" and inserting " $403(b)(8)$, $408(d)(3)$, and

457(e)(16)".

- 1 (10) Section 415(c)(2) is amended by striking 2 "and 408(d)(3)" and inserting "408(d)(3), and 3 457(e)(16)".
- 4 (11) Section 4973(b)(1)(A) is amended by strik-5 ing "or 408(d)(3)" and inserting "408(d)(3), or 6 457(e)(16)".

(f) Effective Date; Special Rule.—

- (1) Effective date.—The amendments made by this section shall apply to distributions after December 31, 2001.
- (2) REASONABLE NOTICE.—No penalty shall be imposed on a plan for the failure to provide the information required by the amendment made by subsection (c) with respect to any distribution made before the date that is 90 days after the date on which the Secretary of the Treasury issues a safe harbor rollover notice after the date of the enactment of this Act, if the administrator of such plan makes a reasonable attempt to comply with such requirement.
- (3) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on

1	behalf of an individual if there was a rollover to such
2	plan on behalf of such individual which is permitted
3	solely by reason of any amendment made by this sec-
4	tion.
5	SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-
6	MENT PLANS.
7	(a) In General.—Subparagraph (A) of section
8	408(d)(3) (relating to rollover amounts) is amended by add-
9	ing "or" at the end of clause (i), by striking clauses (ii)
10	and (iii), and by adding at the end the following:
11	"(ii) the entire amount received (in-
12	cluding money and any other property) is
13	paid into an eligible retirement plan for the
14	benefit of such individual not later than the
15	60th day after the date on which the pay-
16	ment or distribution is received, except that
17	the maximum amount which may be paid
18	into such plan may not exceed the portion
19	of the amount received which is includible
20	in gross income (determined without regard
21	to this paragraph).
22	For purposes of clause (ii), the term 'eligible re-
23	tirement plan' means an eligible retirement plan
24	described in clause (iii), (iv), (v), or (vi) of sec-
25	$tion \ 402(c)(8)(B)$."

1	(b) Conforming Amendments.—
2	(1) Paragraph (1) of section 403(b) is amended
3	by striking "section 408(d)(3)(A)(iii)" and inserting
4	"section $408(d)(3)(A)(ii)$ ".
5	(2) Clause (i) of section 408(d)(3)(D) is amended
6	by striking "(i), (ii), or (iii)" and inserting "(i) or
7	(ii)".
8	(3) Subparagraph (G) of section $408(d)(3)$ is
9	amended to read as follows:
10	"(G) SIMPLE RETIREMENT ACCOUNTS.—In
11	the case of any payment or distribution out of
12	a simple retirement account (as defined in sub-
13	section (p)) to which section $72(t)(6)$ applies,
14	this paragraph shall not apply unless such pay-
15	ment or distribution is paid into another simple
16	retirement account.".
17	(c) Effective Date; Special Rule.—
18	(1) Effective date.—The amendments made
19	by this section shall apply to distributions after De-
20	cember 31, 2001.
21	(2) Special Rule.—Notwithstanding any other
22	provision of law, subsections (h)(3) and (h)(5) of sec-
23	tion 1122 of the Tax Reform Act of 1986 shall not
24	apply to any distribution from an eligible retirement

plan (as defined in clause (iii) or (iv) of section

1 402(c)(8)(B) of the Internal Revenue Code of 1986) on 2 behalf of an individual if there was a rollover to such 3 plan on behalf of such individual which is permitted 4 solely by reason of the amendments made by this sec-5 tion. 6 SEC. 403. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS. 7 (a) Rollovers From Exempt Trusts.—Paragraph (2) of section 402(c) (relating to maximum amount which 8 may be rolled over) is amended by adding at the end the following: "The preceding sentence shall not apply to such distribution to the extent— 12 "(A) such portion is transferred in a direct 13 trustee-to-trustee transfer to a qualified trust 14 which is part of a plan which is a defined con-15 tribution plan and which agrees to separately 16 account for amounts so transferred, including 17 separately accounting for the portion of such dis-18 tribution which is includible in gross income 19 and the portion of such distribution which is not 20 so includible, or 21 "(B) such portion is transferred to an eligi-22 ble retirement plan described in clause (i) or (ii) of paragraph (8)(B).". 23 24 (b) Optional Direct Transfer of Eligible Roll-OVER DISTRIBUTIONS.—Subparagraph (B) of section

1	401(a)(31) (relating to limitation) is amended by adding
2	at the end the following:
3	"The preceding sentence shall not apply to such
4	distribution if the plan to which such distribu-
5	tion is transferred—
6	"(i) agrees to separately account for
7	amounts so transferred, including sepa-
8	rately accounting for the portion of such
9	distribution which is includible in gross in-
10	come and the portion of such distribution
11	which is not so includible, or
12	"(ii) is an eligible retirement plan de-
13	scribed in clause (i) or (ii) of section
14	402(c)(8)(B).".
15	(c) Rules for Applying Section 72 to IRAs.—
16	Paragraph (3) of section 408(d) (relating to special rules
17	for applying section 72) is amended by inserting at the end
18	the following:
19	"(H) Application of Section 72.—
20	"(i) In general.—If—
21	"(I) a distribution is made from
22	an individual retirement plan, and
23	"(II) a rollover contribution is
24	made to an eligible retirement plan de-
25	scribed in $section$ $402(c)(8)(B)(iii)$,

1	(iv), (v), or (vi) with respect to all or
2	part of such distribution,
3	then, notwithstanding paragraph (2), the
4	rules of clause (ii) shall apply for purposes
5	of applying section 72.
6	"(ii) Applicable Rules.—In the case
7	of a distribution described in clause (i)—
8	"(I) section 72 shall be applied
9	separately to such distribution,
10	"(II) notwithstanding the pro
11	rata allocation of income on, and in-
12	vestment in, the contract to distribu-
13	tions under section 72, the portion of
14	such distribution rolled over to an eli-
15	gible retirement plan described in
16	clause (i) shall be treated as from in-
17	come on the contract (to the extent of
18	the aggregate income on the contract
19	from all individual retirement plans of
20	the distributee), and
21	``(III) appropriate adjustments
22	shall be made in applying section 72 to
23	other distributions in such taxable year
24	and subsequent taxable years.".

1	(d) Effective Date.—The amendments made by this
2	section shall apply to distributions after December 31, 2001.
3	SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.
4	(a) Exempt Trusts.—Paragraph (3) of section
5	402(c) (relating to transfer must be made within 60 days
6	of receipt) is amended to read as follows:
7	"(3) Transfer must be made within 60 days
8	OF RECEIPT.—
9	"(A) In general.—Except as provided in
10	subparagraph (B), paragraph (1) shall not
11	apply to any transfer of a distribution made
12	after the 60th day following the day on which the
13	distributee received the property distributed.
14	"(B) Hardship exception.—The Sec-
15	retary may waive the 60-day requirement under
16	subparagraph (A) where the failure to waive
17	such requirement would be against equity or
18	good conscience, including casualty, disaster, or
19	other events beyond the reasonable control of the
20	individual subject to such requirement.".
21	(b) IRAs.—Paragraph (3) of section 408(d) (relating
22	to rollover contributions), as amended by section 403, is
23	amended by adding after subparagraph (H) the following
24	new subparagraph:

1	"(I) Waiver of 60-day requirement.—
2	The Secretary may waive the 60-day require-
3	ment under subparagraphs (A) and (D) where
4	the failure to waive such requirement would be
5	against equity or good conscience, including cas-
6	ualty, disaster, or other events beyond the rea-
7	sonable control of the individual subject to such
8	requirement.".
9	(c) Effective Date.—The amendments made by this
10	section shall apply to distributions after December 31, 2001.
11	SEC. 405. TREATMENT OF FORMS OF DISTRIBUTION.
12	(a) Plan Transfers.—
13	(1) Amendment of internal revenue
14	CODE.—Paragraph (6) of section 411(d) (relating to
15	accrued benefit not to be decreased by amendment) is
16	amended by adding at the end the following:
17	"(D) Plan transfers.—
18	"(i) In General.—A defined contribu-
19	tion plan (in this subparagraph referred to
20	as the 'transferee plan') shall not be treated
21	as failing to meet the requirements of this
22	subsection merely because the transferee
23	plan does not provide some or all of the
24	forms of distribution previously available
25	under another defined contribution plan (in

1	this subparagraph referred to as the 'trans-
2	feror plan') to the extent that—
3	"(I) the forms of distribution pre-
4	viously available under the transferor
5	plan applied to the account of a par-
6	ticipant or beneficiary under the
7	transferor plan that was transferred
8	from the transferor plan to the trans-
9	feree plan pursuant to a direct transfer
10	rather than pursuant to a distribution
11	from the transferor plan,
12	"(II) the terms of both the trans-
13	feror plan and the transferee plan au-
14	thorize the transfer described in sub-
15	clause (I),
16	"(III) the transfer described in
17	subclause (I) was made pursuant to a
18	voluntary election by the participant
19	or beneficiary whose account was
20	transferred to the transferee plan,
21	"(IV) the election described in
22	subclause (III) was made after the par-
23	ticipant or beneficiary received a no-
24	tice describing the consequences of
25	making the election, and

1	"(V) the transferee plan allows the
2	participant or beneficiary described in
3	subclause (III) to receive any distribu-
4	tion to which the participant or bene-
5	ficiary is entitled under the transferee
6	plan in the form of a single sum dis-
7	tribution.
8	"(ii) Exception.—Clause (i) shall
9	apply to plan mergers and other trans-
10	actions having the effect of a direct transfer,
11	including consolidations of benefits attrib-
12	utable to different employers within a mul-
13	tiple employer plan.
14	"(E) Elimination of form of distribu-
15	Tion.—Except to the extent provided in regula-
16	tions, a defined contribution plan shall not be
17	treated as failing to meet the requirements of this
18	section merely because of the elimination of a
19	form of distribution previously available there-
20	under. This subparagraph shall not apply to the
21	elimination of a form of distribution with re-
22	spect to any participant unless—
23	"(i) a single sum payment is available
24	to such participant at the same time or

1	times as the form of distribution being
2	eliminated, and
3	"(ii) such single sum payment is based
4	on the same or greater portion of the par-
5	ticipant's account as the form of distribu-
6	tion being eliminated.".
7	(2) Amendment of Erisa.—Section 204(g) of
8	the Employee Retirement Income Security Act of
9	1974 (29 U.S.C. $1054(g)$) is amended by adding at
10	the end the following:
11	"(4)(A) A defined contribution plan (in this subpara-
12	graph referred to as the 'transferee plan') shall not be treat-
13	ed as failing to meet the requirements of this subsection
14	merely because the transferee plan does not provide some
15	or all of the forms of distribution previously available under
16	another defined contribution plan (in this subparagraph re-
17	ferred to as the 'transferor plan') to the extent that—
18	"(i) the forms of distribution previously avail-
19	able under the transferor plan applied to the account
20	of a participant or beneficiary under the transferor
21	plan that was transferred from the transferor plan to
22	the transferee plan pursuant to a direct transfer rath-
23	er than pursuant to a distribution from the transferor
24	plan;

- 1 "(ii) the terms of both the transferor plan and 2 the transferee plan authorize the transfer described in 3 clause (i);
- "(iii) the transfer described in clause (i) was
 made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to
 the transferee plan;
 - "(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election; and
- "(v) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.
- "(B) Subparagraph (A) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.
- "(5) Except to the extent provided in regulations promulgated by the Secretary of the Treasury, a defined contribution plan shall not be treated as failing to meet the requirements of this subsection merely because of the elimination of a form of distribution previously available there-

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- 1 under. This paragraph shall not apply to the elimination
- 2 of a form of distribution with respect to any participant
- 3 unless—

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- 4 "(A) a single sum payment is available to such 5 participant at the same time or times as the form of 6 distribution being eliminated; and
- 7 "(B) such single sum payment is based on the 8 same or greater portion of the participant's account 9 as the form of distribution being eliminated.".
- 10 (3) EFFECTIVE DATE.—The amendments made 11 by this subsection shall apply to years beginning after 12 December 31, 2001.

(b) REGULATIONS.—

(1)AMENDMENT OFINTERNAL REVENUE CODE.—Paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by inserting after the second sentence the following new sentence: "The Secretary shall by requlations provide that this subparagraph shall not apply to any plan amendment which reduces or eliminates benefits or subsidies which create significant burdens or complexities for the plan and plan participants and does not adversely affect the rights of any participant in a more than de minimis manner.".

1 (2) Amendment of erisa.—Section 204(q)(2) of 2 the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(q)(2)) is amended by inserting 3 before the last sentence the following new sentence: "The Secretary of the Treasury shall by regulations 5 6 provide that this paragraph shall not apply to any 7 plan amendment which reduces or eliminates benefits 8 or subsidies which create significant burdens or com-9 plexities for the plan and plan participants and does 10 not adversely affect the rights of any participant in 11 a more than de minimis manner.". 12 (3) Secretary directed.—Not later than De-13 cember 31, 2003, the Secretary of the Treasury is di-14 rected to issue regulations under section 411(d)(6) of 15 the Internal Revenue Code of 1986 and section 204(g) 16 of the Employee Retirement Income Security Act of 17 1974, including the regulations required by the 18 amendment made by this subsection. Such regulations 19 shall apply to plan years beginning after December 20 31, 2003, or such earlier date as is specified by the 21 Secretary of the Treasury. 22 SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-23 TRIBUTIONS. 24 (a) Modification of Same Desk Exception.—

(1) SECTION 401(k).—

25

1	(A) Section $401(k)(2)(B)(i)(I)$ (relating to
2	qualified cash or deferred arrangements) is
3	amended by striking "separation from service"
4	and inserting "severance from employment".
5	(B) Subparagraph (A) of section 401(k)(10)
6	(relating to distributions upon termination of
7	plan or disposition of assets or subsidiary) is
8	amended to read as follows:
9	"(A) In general.—An event described in
10	this subparagraph is the termination of the plan
11	without establishment or maintenance of another
12	defined contribution plan (other than an em-
13	ployee stock ownership plan as defined in section
14	4975(e)(7)).".
15	(C) Section $401(k)(10)$ is amended—
16	(i) in subparagraph (B)—
17	(I) by striking "An event" in
18	clause (i) and inserting "A termi-
19	nation"; and
20	(II) by striking "the event" in
21	clause (i) and inserting "the termi-
22	nation";
23	(ii) by striking subparagraph (C); and
24	(iii) by striking "OR DISPOSITION OF
25	ASSETS OR SUBSIDIARY' in the heading.

1	(2) Section 403(b).—
2	(A) Paragraphs $(7)(A)(ii)$ and $(11)(A)$ of
3	section 403(b) are each amended by striking
4	"separates from service" and inserting "has a
5	severance from employment".
6	(B) The heading for paragraph (11) of sec-
7	tion 403(b) is amended by striking "SEPARATION
8	FROM SERVICE" and inserting "SEVERANCE
9	FROM EMPLOYMENT".
10	(3) Section 457.—Clause (ii) of section
11	457(d)(1)(A) is amended by striking "is separated
12	from service" and inserting "has a severance from
13	employment".
14	(b) Effective Date.—The amendments made by this
15	section shall apply to distributions after December 31, 2001.
16	SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-
17	MENTAL DEFINED BENEFIT PLANS.
18	(a) 403(b) Plans.—Subsection (b) of section 403 is
19	amended by adding at the end the following new paragraph:
20	"(13) Trustee-to-trustee transfers to
21	PURCHASE PERMISSIVE SERVICE CREDIT.—No
22	amount shall be includible in gross income by reason
23	of a direct trustee-to-trustee transfer to a defined ben-
24	efit governmental plan (as defined in section 414(d))
25	if such transfer is—

1	"(A) for the purchase of permissive service
2	$credit\ (as\ defined\ in\ section\ 415(n)(3)(A))\ under$
3	such plan, or
4	"(B) a repayment to which section 415 does
5	not apply by reason of subsection (k)(3) there-
6	of.".
7	(b) 457 Plans.—Subsection (e) of section 457 is
8	amended by adding after paragraph (16) the following new
9	paragraph:
10	"(17) Trustee-to-trustee transfers to
11	PURCHASE PERMISSIVE SERVICE CREDIT.—No
12	amount shall be includible in gross income by reason
13	of a direct trustee-to-trustee transfer to a defined ben-
14	efit governmental plan (as defined in section 414(d))
15	if such transfer is—
16	"(A) for the purchase of permissive service
17	$credit\ (as\ defined\ in\ section\ 415(n)(3)(A))\ under$
18	such plan, or
19	"(B) a repayment to which section 415 does
20	not apply by reason of subsection (k)(3) there-
21	of.".
22	(c) Effective Date.—The amendments made by this
23	section shall apply to trustee-to-trustee transfers after De-
24	cember 31, 2001.

1	SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR
2	PURPOSES OF CASH-OUT AMOUNTS.
3	(a) Qualified Plans.—
4	(1) Amendment of internal revenue
5	CODE.—Section 411(a)(11) (relating to restrictions on
6	certain mandatory distributions) is amended by add-
7	ing at the end the following:
8	"(D) Special rule for rollover con-
9	TRIBUTIONS.—A plan shall not fail to meet the
10	requirements of this paragraph if, under the
11	terms of the plan, the present value of the non-
12	forfeitable accrued benefit is determined without
13	regard to that portion of such benefit which is
14	attributable to rollover contributions (and earn-
15	ings allocable thereto). For purposes of this sub-
16	paragraph, the term 'rollover contributions'
17	means any rollover contribution under sections
18	402(c), $403(a)(4)$, $403(b)(8)$, $408(d)(3)(A)(ii)$,
19	and 457(e)(16).".
20	(2) Amendment of Erisa.—Section 203(e) of
21	the Employee Retirement Income Security Act of
22	1974 (29 U.S.C. $1053(c)$) is amended by adding at
23	the end the following:
24	"(4) A plan shall not fail to meet the requirements of
25	this subsection if, under the terms of the plan, the present
26	value of the nonforfeitable accrued benefit is determined

- 1 without regard to that portion of such benefit which is at-
- 2 tributable to rollover contributions (and earnings allocable
- 3 thereto). For purposes of this subparagraph, the term 'roll-
- 4 over contributions' means any rollover contribution under
- 5 sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and
- 6 457(e)(16) of the Internal Revenue Code of 1986.".
- 7 (b) Eligible Deferred Compensation Plans.—
- 8 Clause (i) of section 457(e)(9)(A) is amended by striking
- 9 "such amount" and inserting "the portion of such amount
- 10 which is not attributable to rollover contributions (as de-
- 11 fined in section 411(a)(11)(D)".
- 12 (c) Effective Date.—The amendments made by this
- 13 section shall apply to distributions after December 31, 2001.
- 14 SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-
- 15 QUIREMENTS FOR SECTION 457 PLANS.
- 16 (a) Minimum Distribution Requirements.—Para-
- 17 graph (2) of section 457(d) (relating to distribution require-
- 18 ments) is amended to read as follows:
- 19 "(2) Minimum distribution requirements.—
- 20 A plan meets the minimum distribution requirements
- 21 of this paragraph if such plan meets the requirements
- 22 of section 401(a)(9).".
- 23 (b) Inclusion in Gross Income.—

1	(1) Year of inclusion.—Subsection (a) of sec-
2	tion 457 (relating to year of inclusion in gross in-
3	come) is amended to read as follows:
4	"(a) Year of inclusion in gross income.—
5	"(1) In general.—Any amount of compensa-
6	tion deferred under an eligible deferred compensation
7	plan, and any income attributable to the amounts so
8	deferred, shall be includible in gross income only for
9	the taxable year in which such compensation or other
10	income—
11	"(A) is paid to the participant or other ben-
12	eficiary, in the case of a plan of an eligible em-
13	ployer described in subsection (e)(1)(A), and
14	"(B) is paid or otherwise made available to
15	the participant or other beneficiary, in the case
16	of a plan of an eligible employer described in
17	$subsection \ (e)(1)(B).$
18	"(2) Special rule for rollover amounts.—
19	To the extent provided in section $72(t)(9)$, section
20	72(t) shall apply to any amount includible in gross
21	income under this subsection.".
22	(2) Conforming amendments.—
23	(A) So much of paragraph (9) of section
24	457(e) as precedes subparagraph (A) is amended
25	to read as follows:

1	"(9) Benefits of tax exempt organization
2	PLANS NOT TREATED AS MADE AVAILABLE BY REASON
3	OF CERTAIN ELECTIONS, ETC.—In the case of an eligi-
4	ble deferred compensation plan of an employer de-
5	scribed in subsection $(e)(1)(B)$ —".
6	(B) Section 457(d) is amended by adding at
7	the end the following new paragraph:
8	"(3) Special rule for government plan.—
9	An eligible deferred compensation plan of an em-
10	ployer described in subsection $(e)(1)(A)$ shall not be
11	treated as failing to meet the requirements of this sub-
12	section solely by reason of making a distribution de-
13	scribed in subsection $(e)(9)(A)$.".
14	(c) Effective Date.—The amendments made by this
15	section shall apply to distributions after December 31, 2001.
16	TITLE V—STRENGTHENING PEN-
17	SION SECURITY AND EN-
18	FORCEMENT
19	SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY
20	FUNDING LIMIT.
21	(a) Amendment of Internal Revenue Code.—Sec-
22	$tion \ 412(c)(7)$ (relating to full-funding limitation) is
23	amended—
24	(1) by striking "the applicable percentage" in
25	subparagraph (A)(i)(I) and inserting "in the case of

1	plan years beginning before January 1, 2004, the ap-	
2	plicable percentage"; and	
3	(2) by amending subparagraph (F) to read as	
4	follows:	
5	"(F) Applicable percentage.—For pur-	
6	poses of subparagraph $(A)(i)(I)$, the applicable	
7	percentage shall be determined in accordance	
8	with the following table:	
	"In the case of any plan year beginning in— percentage is— 2002	
9	(b) Amendment of ERISA.—Section 302(c)(7) of the	
10	Employee Retirement Income Security Act of 1974 (29	
11	U.S.C. 1082(c)(7)) is amended—	
12	(1) by striking "the applicable percentage" in	
13	subparagraph $(A)(i)(I)$ and inserting "in the case of	
14	plan years beginning before January 1, 2004, the ap	
15	plicable percentage"; and	
16	(2) by amending subparagraph (F) to read as	
17	follows:	
18	"(F) Applicable percentage.—For pur-	
19	poses of subparagraph $(A)(i)(I)$, the applicable	
20	percentage shall be determined in accordance	
21	with the following table:	
	"In the case of any plan year beginning in— The applicable percentage is— 2002 165 2003 170."	

1	(c) Effective Date.—The amendments made by this
2	section shall apply to plan years beginning after December
3	31, 2001.
4	SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES
5	MODIFIED AND APPLIED TO ALL DEFINED
6	BENEFIT PLANS.
7	(a) In General.—Subparagraph (D) of section
8	404(a)(1) (relating to special rule in case of certain plans)
9	is amended to read as follows:
10	"(D) Special rule in case of certain
11	PLANS.—
12	"(i) In general.—In the case of any
13	defined benefit plan, except as provided in
14	regulations, the maximum amount deduct-
15	ible under the limitations of this paragraph
16	shall not be less than the unfunded termi-
17	nation liability (determined as if the pro-
18	posed termination date referred to in section
19	4041(b)(2)(A)(i)(II) of the Employee Retire-
20	ment Income Security Act of 1974 were the
21	last day of the plan year).
22	"(ii) Plans with less than 100 par-
23	ticipants.—For purposes of this subpara-
24	graph, in the case of a plan which has less
25	than 100 participants for the plan year,

1 termination liability shall not include the 2 liability attributable to benefit increases for 3 highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effec-5 6 tive, whichever is later, within the last 2 7 years before the termination date. 8 "(iii) Rule for determining num-9 BER OF PARTICIPANTS.—For purposes of determining whether a plan has more than 10 11 100 participants, all defined benefit plans 12 maintained by the same employer (or any 13 member of such employer's controlled group 14 (within themeaning ofsection 15 412(l)(8)(C)) shall be treated as one plan, 16 but only employees of such member or em-17 ployer shall be taken into account. 18 "(iv) Plans maintained by profes-19 SIONAL SERVICE EMPLOYERS.—Clause (i) 20 shall not apply to a plan described in sec-21 tion 4021(b)(13) of the Employee Retire-22 ment Income Security Act of 1974.". 23 (b) Conforming Amendment.—Paragraph (6) of section 4972(c), as amended by section 207, is amended to read as follows: 25

1	"(6) Exceptions.—In determining the amount
2	of nondeductible contributions for any taxable year,
3	there shall not be taken into account so much of the
4	contributions to one or more defined contribution
5	plans which are not deductible when contributed sole-
6	ly because of section 404(a)(7) as does not exceed the
7	greater of—
8	"(A) the amount of contributions not in ex-
9	cess of 6 percent of compensation (within the
10	meaning of section 404(a)) paid or accrued (dur-
11	ing the taxable year for which the contributions
12	were made) to beneficiaries under the plans, or
13	"(B) the sum of—
14	"(i) the amount of contributions de-
15	scribed in section $401(m)(4)(A)$, plus
16	"(ii) the amount of contributions de-
17	scribed in section $402(g)(3)(A)$.
18	For purposes of this paragraph, the deductible limits
19	$under\ section\ 404(a)(7)\ shall\ first\ be\ applied\ to$
20	amounts contributed to a defined benefit plan and
21	then to amounts described in subparagraph (B).".
22	(c) Effective Date.—The amendments made by this
23	section shall apply to plan years beginning after December
24	31. 2001.

SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-

- 2 *ING*.
- 3 (a) In General.—Subsection (c) of section 4972 (re-
- 4 lating to nondeductible contributions) is amended by add-
- 5 ing at the end the following new paragraph:
- 6 "(7) Defined benefit plan exception.—In
- 7 determining the amount of nondeductible contribu-
- 8 tions for any taxable year, an employer may elect for
- 9 such year not to take into account any contributions
- to a defined benefit plan except to the extent that such
- 11 contributions exceed the full-funding limitation (as
- 12 defined in section 412(c)(7), determined without re-
- 13 $gard\ to\ subparagraph\ (A)(i)(I)\ thereof).\ For\ purposes$
- of this paragraph, the deductible limits under section
- 15 404(a)(7) shall first be applied to amounts contrib-
- 16 uted to defined contribution plans and then to
- 17 amounts described in this paragraph. If an employer
- makes an election under this paragraph for a taxable
- 19 year, paragraph (6) shall not apply to such employer
- for such taxable year.".
- 21 (b) Effective Date.—The amendment made by this
- 22 section shall apply to years beginning after December 31,
- 23 2001.

1	SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY
2	DEFINED BENEFIT PLANS SIGNIFICANTLY RE-
3	DUCING FUTURE BENEFIT ACCRUALS.
4	(a) Amendment of Internal Revenue Code.—
5	(1) In general.—Chapter 43 (relating to quali-
6	fied pension, etc., plans) is amended by adding at the
7	end the following new section:
8	"SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING
9	BENEFIT ACCRUALS TO SATISFY NOTICE RE-
10	QUIREMENTS.
11	"(a) Imposition of Tax.—There is hereby imposed a
12	tax on the failure of any applicable pension plan to meet
13	the requirements of subsection (e) with respect to any appli-
14	cable individual.
15	"(b) Amount of Tax.—
16	"(1) In general.—The amount of the tax im-
17	posed by subsection (a) on any failure with respect to
18	any applicable individual shall be \$100 for each day
19	in the noncompliance period with respect to such fail-
20	ure.
21	"(2) Noncompliance period.—For purposes of
22	this section, the term 'noncompliance period' means,
23	with respect to any failure, the period beginning on
24	the date the failure first occurs and ending on the
25	date the notice to which the failure relates is provided
26	or the failure is otherwise corrected.

1	"(c) Limitations on Amount of Tax.—
2	"(1) Tax not to apply where failure not
3	DISCOVERED AND REASONABLE DILIGENCE EXER-
4	cised.—No tax shall be imposed by subsection (a) or
5	any failure during any period for which it is estab-
6	lished to the satisfaction of the Secretary that any
7	person subject to liability for the tax under subsection
8	(d) did not know that the failure existed and exercised
9	reasonable diligence to meet the requirements of sub-
10	section (e).
11	"(2) Tax not to apply to failures cor-
12	RECTED WITHIN 30 DAYS.—No tax shall be imposed
13	by subsection (a) on any failure if—
14	"(A) any person subject to liability for the
15	tax under subsection (d) exercised reasonable
16	diligence to meet the requirements of subsection
17	(e), and
18	"(B) such person provides the notice de-
19	scribed in subsection (e) during the 30-day pe
20	riod beginning on the first date such person
21	knew, or exercising reasonable diligence would
22	have known, that such failure existed.
23	"(3) Overall limitation for unintentional
24	FAILURES.—

"(A) In General.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

"(B) Taxable years in the case of certain controlled groups.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(4) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

1	"(d) Liability for Tax.—The following shall be lia-
2	ble for the tax imposed by subsection (a):
3	"(1) In the case of a plan other than a multiem-
4	ployer plan, the employer.
5	"(2) In the case of a multiemployer plan, the
6	plan.
7	"(e) Notice Requirements for Plans Signifi-
8	CANTLY REDUCING BENEFIT ACCRUALS.—
9	"(1) In general.—If an applicable pension
10	plan is amended to provide for a significant reduc-
11	tion in the rate of future benefit accrual, the plan ad-
12	ministrator shall provide written notice to each ap-
13	plicable individual (and to each employee organiza-
14	$tion\ representing\ applicable\ individuals).$
15	"(2) Notice.—The notice required by paragraph
16	(1) shall be written in a manner calculated to be un-
17	derstood by the average plan participant and shall
18	provide sufficient information (as determined in ac-
19	cordance with regulations prescribed by the Sec-
20	retary) to allow applicable individuals to understand
21	the effect of the plan amendment. The Secretary may
22	provide a simplified form of notice for, or exempt
23	from any notice requirement, a plan—
24	"(A) which has fewer than 100 participants
25	who have accrued a benefit under the plan, or

1	"(B) which offers participants the option to
2	choose between the new benefit formula and the
3	old benefit formula.
4	"(3) Timing of notice.—Except as provided in
5	regulations, the notice required by paragraph (1)
6	shall be provided within a reasonable time before the
7	effective date of the plan amendment.
8	"(4) Designees.—Any notice under paragraph
9	(1) may be provided to a person designated, in writ-
10	ing, by the person to which it would otherwise be pro-
11	vided.
12	"(5) Notice before adoption of amend-
13	MENT.—A plan shall not be treated as failing to meet
14	the requirements of paragraph (1) merely because no-
15	tice is provided before the adoption of the plan
16	amendment if no material modification of the amend-
17	ment occurs before the amendment is adopted.
18	"(f) Definitions and Special Rules.—For pur-
19	poses of this section—
20	"(1) APPLICABLE INDIVIDUAL.—The term 'appli-
21	cable individual' means, with respect to any plan
22	amendment—
23	"(A) each participant in the plan, and
24	"(B) any beneficiary who is an alternate
25	nauee (within the meaning of section $414(n)(8)$)

1	under an applicable qualified domestic relations
2	order (within the meaning of section
3	414(p)(1)(A)),
4	whose rate of future benefit accrual under the plan
5	may reasonably be expected to be significantly re-
6	duced by such plan amendment.
7	"(2) Applicable pension plan.—The term 'ap-
8	plicable pension plan' means—
9	"(A) any defined benefit plan, or
10	"(B) an individual account plan which is
11	subject to the funding standards of section 412.
12	Such term shall not include a governmental plan
13	(within the meaning of section 414(d)) or a church
14	plan (within the meaning of section 414(e)) with re-
15	spect to which the election provided by section $410(d)$
16	has not been made.
17	"(3) Early retirement.—A plan amendment
18	which eliminates or significantly reduces any early
19	retirement benefit or retirement-type subsidy (within
20	the meaning of section $411(d)(6)(B)(i)$) shall be treat-
21	ed as having the effect of significantly reducing the
22	rate of future benefit accrual.
23	"(g) New Technologies.—The Secretary may by
24	regulations allow any notice under subsection (e) to be pro-
25	vided by using new technologies.".

1	(2) Clerical amendment.—The table of sec-
2	tions for chapter 43 is amended by adding at the end
3	the following new item:
	"Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.".
4	(b) Amendment of ERISA.—Section 204(h) of the
5	Employee Retirement Income Security Act of 1974 (29
6	U.S.C. 1054(h)) is amended by adding at the end the fol-
7	lowing new paragraphs:
8	"(3)(A) An applicable pension plan to which para-
9	graph (1) applies shall not be treated as meeting the re-
10	quirements of such paragraph unless, in addition to any
11	notice required to be provided to an individual or organiza-
12	tion under such paragraph, the plan administrator pro-
13	vides the notice described in subparagraph (B) to each ap-
14	plicable individual (and to each employee organization rep-
15	resenting applicable individuals).
16	"(B) The notice required by subparagraph (A) shall
17	be written in a manner calculated to be understood by the
18	average plan participant and shall provide sufficient infor-
19	mation (as determined in accordance with regulations pre-
20	scribed by the Secretary of the Treasury) to allow applicable
21	individuals to understand the effect of the plan amendment.
22	The Secretary of the Treasury may provide a simplified
23	form of notice for, or exempt from any notice requirement,
24	a nlan

1	"(i) which has fewer than 100 participants who
2	have accrued a benefit under the plan, or
3	"(ii) which offers participants the option to
4	choose between the new benefit formula and the old
5	benefit formula.
6	"(C) Except as provided in regulations prescribed by
7	the Secretary of the Treasury, the notice required by sub-
8	paragraph (A) shall be provided within a reasonable time
9	before the effective date of the plan amendment.
10	"(D) Any notice under subparagraph (A) may be pro-
11	vided to a person designated, in writing, by the person to
12	which it would otherwise be provided.
13	"(E) A plan shall not be treated as failing to meet
14	the requirements of subparagraph (A) merely because notice
15	is provided before the adoption of the plan amendment is
16	no material modification of the amendment occurs before
17	the amendment is adopted.
18	"(F) The Secretary of the Treasury may by regulations
19	allow any notice under this paragraph to be provided by
20	using new technologies.
21	"(4) For purposes of paragraph (3)—
22	"(A) The term 'applicable individual' means,
23	with respect to any plan amendment—
24	"(i) each participant in the plan: and

1	"(ii) any beneficiary who is an alternate
2	payee (within the meaning of section
3	206(d)(3)(K)) under an applicable qualified do-
4	mestic relations order (within the meaning of
5	section $206(d)(3)(B)(i)$,
6	whose rate of future benefit accrual under the plan
7	may reasonably be expected to be significantly re-
8	duced by such plan amendment.
9	"(B) The term 'applicable pension plan'
10	means—
11	"(i) any defined benefit plan; or
12	"(ii) an individual account plan which is
13	subject to the funding standards of section 412 of
14	the Internal Revenue Code of 1986.
15	"(C) A plan amendment which eliminates or sig-
16	nificantly reduces any early retirement benefit or re-
17	tirement-type subsidy (within the meaning of sub-
18	section $(g)(2)(A)$) shall be treated as having the effect
19	of significantly reducing the rate of future benefit ac-
20	crual.".
21	(c) Effective Dates.—
22	(1) In general.—The amendments made by
23	this section shall apply to plan amendments taking
24	effect on or after the date of the enactment of this Act.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986, and section 204(h)(3) of the Employee Retirement Income Security Act of 1974, as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) Special notice rule.—

- (A) In General.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.
- (B) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, before April 25, 2001, notice was provided to participants and beneficiaries adversely affected by the plan amendment (or their representatives) which was reasonably expected to notify them of the nature and effective date of the plan amendment.

1	(d) Study.—The Secretary of the Treasury shall pre-
2	pare a report on the effects of conversions of traditional de-
3	fined benefit plans to cash balance or hybrid formula plans.
4	Such study shall examine the effect of such conversions on
5	longer service participants, including the incidence and ef-
6	fects of "wear away" provisions under which participants
7	earn no additional benefits for a period of time after the
8	conversion. As soon as practicable, but not later than 60
9	days after the date of the enactment of this Act, the Sec-
10	retary shall submit such report, together with recommenda-
11	tions thereon, to the Committee on Ways and Means and
12	the Committee on Education and the Workforce of the
13	House of Representatives and the Committee on Finance
14	and the Committee on Health, Education, Labor, and Pen-
15	sions of the Senate.
16	SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER
17	SECTION 415.
18	(a) Compensation Limit.—
19	(1) In General.—Paragraph (11) of section
20	415(b) (relating to limitation for defined benefit
21	plans) is amended to read as follows:
22	"(11) Special limitation rule for govern-
23	MENTAL AND MULTIEMPLOYER PLANS.—In the case of
24	a governmental plan (as defined in section 414(d)) or

1	a multiemployer plan (as defined in section 414(f)),
2	subparagraph (B) of paragraph (1) shall not apply.".
3	(2) Conforming amendment.—Section
4	415(b)(7) (relating to benefits under certain collec-
5	tively bargained plans) is amended by inserting
6	"(other than a multiemployer plan)" after "defined
7	benefit plan" in the matter preceding subparagraph
8	(A).
9	(b) Combining and Aggregation of Plans.—
10	(1) Combining of Plans.—Subsection (f) of sec-
11	tion 415 (relating to combining of plans) is amended
12	by adding at the end the following:
13	"(3) Exception for multiemployer plans.—
14	Notwithstanding paragraph (1) and subsection (g), a
15	multiemployer plan (as defined in section 414(f))
16	shall not be combined or aggregated—
17	"(A) with any other plan which is not a
18	multiemployer plan for purposes of applying
19	subsection $(b)(1)(B)$ to such other plan, or
20	"(B) with any other multiemployer plan for
21	purposes of applying the limitations established
22	in this section.".
23	(2) Conforming amendment for aggregation
24	OF PLANS.—Subsection (g) of section 415 (relating to
25	aggregation of plans) is amended by striking "The

1	Secretary" and inserting "Except as provided in sub-
2	section $(f)(3)$, the Secretary".
3	(c) Effective Date.—The amendments made by this
4	section shall apply to years beginning after December 31,
5	2001.
6	SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE
7	CONTRIBUTIONS TO 401(K) PLANS.
8	(a) In General.—Section 1524(b) of the Taxpayer
9	Relief Act of 1997 is amended to read as follows:
10	"(b) Effective Date.—
11	"(1) In general.—Except as provided in para-
12	graph (2), the amendments made by this section shall
13	apply to elective deferrals for plan years beginning
14	after December 31, 1998.
15	"(2) Nonapplication to previously acquired
16	PROPERTY.—The amendments made by this section
17	shall not apply to any elective deferral which is in-
18	vested in assets consisting of qualifying employer se-
19	curities, qualifying employer real property, or both, if
20	such assets were acquired before January 1, 1999.".
21	(b) Effective Date.—The amendment made by this
22	section shall apply as if included in the provision of the
23	Taxpayer Relief Act of 1997 to which it relates.

1 SEC. 507. PERIODIC PENSION BENEFITS STATEMENTS.

2	(a) In General.—Section 105(a) of the Employee Re-
3	tirement Income Security Act of 1974 (29 U.S.C. 1025 (a))
4	is amended to read as follows:
5	"(a)(1) Except as provided in paragraph (2)—
6	"(A) the administrator of an individual account
7	plan shall furnish a pension benefit statement—
8	"(i) to a plan participant at least once an-
9	nually, and
10	"(ii) to a plan beneficiary upon written re-
11	quest, and
12	"(B) the administrator of a defined benefit plan
13	shall furnish a pension benefit statement—
14	"(i) at least once every 3 years to each par-
15	ticipant with a nonforfeitable accrued benefit
16	who is employed by the employer maintaining
17	the plan at the time the statement is furnished
18	to participants, and
19	"(ii) to a plan participant or plan bene-
20	ficiary of the plan upon written request.
21	"(2) Notwithstanding paragraph (1), the adminis-
22	trator of a plan to which more than 1 unaffiliated employer
23	is required to contribute shall only be required to furnish
24	a pension benefit statement under paragraph (1) upon the
25	written request of a participant or beneficiary of the plan.

1	"(3) A pension benefit statement under paragraph
2	(1)—
3	"(A) shall indicate, on the basis of the latest
4	available information—
5	"(i) the total benefits accrued, and
6	"(ii) the nonforfeitable pension benefits, if
7	any, which have accrued, or the earliest date on
8	which benefits will become nonforfeitable,
9	"(B) shall be written in a manner calculated to
10	be understood by the average plan participant, and
11	"(C) may be provided in written, electronic, tele-
12	phonic, or other appropriate form.
13	"(4)(A) In the case of a defined benefit plan, the re-
14	quirements of paragraph (1)(B)(i) shall be treated as met
15	with respect to a participant if the administrator provides
16	the participant at least once each year with notice of the
17	availability of the pension benefit statement and the ways
18	in which the participant may obtain such statement. Such
19	notice shall be provided in written, electronic, telephonic,
20	or other appropriate form, and may be included with other
21	communications to the participant if done in a manner
22	reasonably designed to attract the attention of the partici-
23	pant.
24	"(B) The Secretary may provide that years in which
25	no employee or former employee benefits (within the mean-

- 1 ing of section 410(b) of the Internal Revenue Code of 1986)
- 2 under the plan need not be taken into account in deter-
- 3 mining the 3-year period under paragraph (1)(B)(i).".
- 4 (b) Conforming Amendments.—
- 5 (1) Section 105 of the Employee Retirement In-
- 6 come Security Act of 1974 (29 U.S.C. 1025) is
- 7 amended by striking subsection (d).
- 8 (2) Section 105(b) of such Act (29 U.S.C.
- 9 1025(b)) is amended to read as follows:
- 10 "(b) In no case shall a participant or beneficiary of
- 11 a plan be entitled to more than one statement described in
- 12 subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is applica-
- 13 ble, in any 12-month period.".
- 14 (c) Effective Date.—The amendments made by this
- 15 section shall apply to plan years beginning after December
- 16 31, 2002.
- 17 SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-
- 18 **PORATION ESOP.**
- 19 (a) In General.—Section 409 (relating to qualifica-
- 20 tions for tax credit employee stock ownership plans) is
- 21 amended by redesignating subsection (p) as subsection (q)
- 22 and by inserting after subsection (o) the following new sub-
- 23 section:
- 24 "(p) Prohibited Allocations of Securities in an
- 25 S Corporation.—

1	"(1) In general.—An employee stock ownership
2	plan holding employer securities consisting of stock in
3	an S corporation shall provide that no portion of the
4	assets of the plan attributable to (or allocable in lieu
5	of) such employer securities may, during a nonalloca-
6	tion year, accrue (or be allocated directly or indi-
7	rectly under any plan of the employer meeting the re-
8	quirements of section 401(a)) for the benefit of any
9	disqualified person.
10	"(2) Failure to meet requirements.—
11	"(A) In general.—If a plan fails to meet
12	the requirements of paragraph (1), the plan shall
13	be treated as having distributed to any disquali-
14	fied person the amount allocated to the account
15	of such person in violation of paragraph (1) at
16	the time of such allocation.
17	"(B) Cross reference.—
	"For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.
18	"(3) Nonallocation year.—For purposes of
19	this subsection—
20	"(A) In General.—The term 'nonalloca-
21	tion year' means any plan year of an employee
22	stock ownership plan if, at any time during such
23	plan year—

1	"(i) such plan holds employer securi-
2	ties consisting of stock in an S corporation,
3	and
4	"(ii) disqualified persons own at least
5	50 percent of the number of shares of stock
6	in the S corporation.
7	"(B) Attribution rules.—For purposes
8	of subparagraph (A)—
9	"(i) In General.—The rules of section
10	318(a) shall apply for purposes of deter-
11	mining ownership, except that—
12	"(I) in applying paragraph (1)
13	thereof, the members of an individual's
14	family shall include members of the
15	family described in paragraph $(4)(D)$,
16	and
17	"(II) paragraph (4) thereof shall
18	not apply.
19	"(ii) Deemed-owned shares.—Not-
20	withstanding the employee trust exception
21	in section $318(a)(2)(B)(i)$, individual shall
22	be treated as owning deemed-owned shares
23	of the individual.
24	Solely for purposes of applying paragraph (5),
25	this subparagraph shall be applied after the at-

1	tribution rules of paragraph (5) have been ap-
2	plied.
3	"(4) Disqualified Person.—For purposes of
4	this subsection—
5	"(A) In General.—The term 'disqualified
6	person' means any person if—
7	"(i) the aggregate number of deemed-
8	owned shares of such person and the mem-
9	bers of such person's family is at least 20
10	percent of the number of deemed-owned
11	shares of stock in the S corporation, or
12	"(ii) in the case of a person not de-
13	scribed in clause (i), the number of deemed-
14	owned shares of such person is at least 10
15	percent of the number of deemed-owned
16	shares of stock in such corporation.
17	"(B) Treatment of family members.—
18	In the case of a disqualified person described in
19	subparagraph (A)(i), any member of such per-
20	son's family with deemed-owned shares shall be
21	treated as a disqualified person if not otherwise
22	treated as a disqualified person under subpara-
23	graph(A).
24	"(C) Deemed-owned shares.—

1	"(i) In General.—The term 'deemed-
2	owned shares' means, with respect to any
3	person—
4	"(I) the stock in the S corporation
5	constituting employer securities of an
6	employee stock ownership plan which
7	is allocated to such person under the
8	plan, and
9	"(II) such person's share of the
10	stock in such corporation which is held
11	by such plan but which is not allocated
12	under the plan to participants.
13	"(ii) Person's share of
14	UNALLOCATED STOCK.—For purposes of
15	clause (i)(II), a person's share of
16	unallocated S corporation stock held by
17	such plan is the amount of the unallocated
18	stock which would be allocated to such per-
19	son if the unallocated stock were allocated to
20	all participants in the same proportions as
21	the most recent stock allocation under the
22	plan.
23	"(D) Member of family.—For purposes of
24	this paragraph, the term 'member of the family'
25	means, with respect to any individual—

1	"(i) the spouse of the individual,
2	"(ii) an ancestor or lineal descendant
3	of the individual or the individual's spouse,
4	"(iii) a brother or sister of the indi-
5	vidual or the individual's spouse and any
6	lineal descendant of the brother or sister,
7	and
8	"(iv) the spouse of any individual de-
9	scribed in clause (ii) or (iii).
10	A spouse of an individual who is legally sepa-
11	rated from such individual under a decree of di-
12	vorce or separate maintenance shall not be treat-
13	ed as such individual's spouse for purposes of
14	$this\ subparagraph.$
15	"(5) Treatment of synthetic equity.—For
16	purposes of paragraphs (3) and (4), in the case of a
17	person who owns synthetic equity in the S corpora-
18	tion, except to the extent provided in regulations, the
19	shares of stock in such corporation on which such
20	synthetic equity is based shall be treated as out-
21	standing stock in such corporation and deemed-owned
22	shares of such person if such treatment of synthetic
23	equity of 1 or more such persons results in—
24	"(A) the treatment of any person as a dis-
25	qualified person, or

1	"(B) the treatment of any year as a non-
2	allocation year.
3	For purposes of this paragraph, synthetic equity shall
4	be treated as owned by a person in the same manner
5	as stock is treated as owned by a person under the
6	rules of paragraphs (2) and (3) of section 318(a). If,
7	without regard to this paragraph, a person is treated
8	as a disqualified person or a year is treated as a non-
9	allocation year, this paragraph shall not be construed
10	to result in the person or year not being so treated.
11	"(6) Definitions.—For purposes of this
12	subsection—
13	"(A) Employee stock ownership
14	PLAN.—The term 'employee stock ownership
15	plan' has the meaning given such term by sec-
16	$tion \ 4975(e)(7).$
17	"(B) Employer securities.—The term
18	'employer security' has the meaning given such
19	term by section 409(l).
20	"(C) Synthetic equity.—The term 'syn-
21	thetic equity' means any stock option, warrant,
22	restricted stock, deferred issuance stock right, or
23	similar interest or right that gives the holder the
24	right to acquire or receive stock of the S corpora-
25	tion in the future. Except to the extent provided

1	in regulations, synthetic equity also includes a
2	stock appreciation right, phantom stock unit, or
3	similar right to a future cash payment based on
4	the value of such stock or appreciation in such
5	value.
6	"(7) Regulations.—The Secretary shall pre-
7	scribe such regulations as may be necessary to carry
8	out the purposes of this subsection.".
9	(b) Coordination With Section 4975(e)(7).—The
10	last sentence of section 4975(e)(7) (defining employee stock
11	ownership plan) is amended by inserting ", section 409(p),"
12	after " $409(n)$ ".
13	(c) Excise Tax.—
14	(1) Application of tax.—Subsection (a) of sec-
15	tion 4979A (relating to tax on certain prohibited allo-
16	cations of employer securities) is amended—
17	(A) by striking "or" at the end of para-
18	graph (1), and
19	(B) by striking all that follows paragraph
20	(2) and inserting the following:
21	"(3) there is any allocation of employer securi-
22	ties which violates the provisions of section 409(p), or
23	a nonallocation year described in subsection $(e)(2)(C)$
24	with respect to an employee stock ownership plan, or

1	"(4) any synthetic equity is owned by a dis-
2	qualified person in any nonallocation year,
3	there is hereby imposed a tax on such allocation or owner-
4	ship equal to 50 percent of the amount involved.".
5	(2) Liability.—Section 4979A(c) (defining li-
6	ability for tax) is amended to read as follows:
7	"(c) Liability for Tax.—The tax imposed by this
8	section shall be paid—
9	"(1) in the case of an allocation referred to in
10	paragraph (1) or (2) of subsection (a), by—
11	"(A) the employer sponsoring such plan, or
12	"(B) the eligible worker-owned cooperative,
13	which made the written statement described in section
14	664(g)(1)(E) or in section $1042(b)(3)(B)$ (as the case
15	may be), and
16	"(2) in the case of an allocation or ownership re-
17	ferred to in paragraph (3) or (4) of subsection (a), by
18	the S corporation the stock in which was so allocated
19	or owned.".
20	(3) Definitions.—Section 4979A(e) (relating to
21	definitions) is amended to read as follows:
22	"(e) Definitions and Special Rules.—For pur-
23	poses of this section—
24	"(1) Definitions.—Except as provided in para-
25	graph (2), terms used in this section have the same

1	respective meanings as when used in sections 409 and
2	4978.
3	"(2) Special rules relating to tax imposed
4	BY REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION
5	(a).—
6	"(A) Prohibited Allocations.—The
7	amount involved with respect to any tax imposed
8	by reason of subsection (a)(3) is the amount allo-
9	cated to the account of any person in violation
10	of section $409(p)(1)$.
11	"(B) Synthetic equity.—The amount in-
12	volved with respect to any tax imposed by reason
13	of subsection (a)(4) is the value of the shares on
14	which the synthetic equity is based.
15	"(C) Special rule during first non-
16	ALLOCATION YEAR.—For purposes of subpara-
17	graph (A), the amount involved for the first non-
18	allocation year of any employee stock ownership
19	plan shall be determined by taking into account
20	the total value of all the deemed-owned shares of
21	all disqualified persons with respect to such
22	plan.
23	"(D) Statute of Limitations.—The stat-
24	utory period for the assessment of any tax im-
25	posed by this section by reason of paragraph (3)

1	or (4) of subsection (a) shall not expire before the
2	date which is 3 years from the later of—
3	"(i) the allocation or ownership re-
4	ferred to in such paragraph giving rise to
5	such tax, or
6	"(ii) the date on which the Secretary is
7	notified of such allocation or ownership.".
8	(d) Effective Dates.—
9	(1) In general.—The amendments made by
10	this section shall apply to plan years beginning after
11	December 31, 2004.
12	(2) Exception for certain plans.—In the
13	case of any—
14	(A) employee stock ownership plan estab-
15	lished after March 14, 2001, or
16	(B) employee stock ownership plan estab-
17	lished on or before such date if employer securi-
18	ties held by the plan consist of stock in a cor-
19	poration with respect to which an election under
20	section 1362(a) of the Internal Revenue Code of
21	1986 is not in effect on such date,
22	the amendments made by this section shall apply to
23	plan years ending after March 14, 2001.

1	TITLE VI—REDUCING
2	REGULATORY BURDENS
3	SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.
4	(a) Amendment of Internal Revenue Code.—
5	Paragraph (9) of section 412(c) (relating to annual valu-
6	ation) is amended to read as follows:
7	"(9) Annual Valuation.—
8	"(A) In general.—For purposes of this
9	section, a determination of experience gains and
10	losses and a valuation of the plan's liability
11	shall be made not less frequently than once every
12	year, except that such determination shall be
13	made more frequently to the extent required in
14	particular cases under regulations prescribed by
15	the Secretary.
16	"(B) Valuation date.—
17	"(i) Current year.—Except as pro-
18	vided in clause (ii), the valuation referred
19	to in subparagraph (A) shall be made as of
20	a date within the plan year to which the
21	valuation refers or within one month prior
22	to the beginning of such year.
23	"(ii) Election to use prior year
24	VALUATION.—The valuation referred to in
25	subparagraph (A) may be made as of a date

1	within the plan year prior to the year to
2	which the valuation refers if—
3	"(I) an election is in effect under
4	this clause with respect to the plan,
5	and
6	"(II) as of such date, the value of
7	the assets of the plan are not less than
8	125 percent of the plan's current liabil-
9	ity (as defined in paragraph $(7)(B)$).
10	"(iii) Adjustments.—Information
11	under clause (ii) shall, in accordance with
12	regulations, be actuarially adjusted to re-
13	flect significant differences in participants.
14	"(iv) Election.—An election under
15	clause (ii), once made, shall be irrevocable
16	without the consent of the Secretary.".
17	(b) Amendment of ERISA.—Paragraph (9) of sec-
18	tion 302(c) of the Employee Retirement Income Security
19	Act of 1974 (29 U.S.C. 1053(c)) is amended—
20	(1) by inserting "(A)" after "(9)"; and
21	(2) by adding at the end the following:
22	"(B)(i) Except as provided in clause (ii), the valuation
23	referred to in subparagraph (A) shall be made as of a date
24	within the plan year to which the valuation refers or within
25	one month prior to the beginning of such year.

1	"(ii) The valuation referred to in subparagraph (A)
2	may be made as of a date within the plan year prior to
3	the year to which the valuation refers if—
4	"(I) an election is in effect under this clause
5	with respect to the plan; and
6	"(II) as of such date, the value of the assets of
7	the plan are not less than 125 percent of the plan's
8	current liability (as defined in paragraph $(7)(B)$).
9	"(iii) Information under clause (ii) shall, in accord-
10	ance with regulations, be actuarially adjusted to reflect sig-
11	nificant differences in participants.
12	"(iv) An election under clause (ii), once made, shall
13	be irrevocable without the consent of the Secretary of the
14	Treasury.".
15	(c) Effective Date.—The amendments made by this
16	section shall apply to plan years beginning after December
17	31, 2001.
18	SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT
19	LOSS OF DIVIDEND DEDUCTION.
20	(a) In General.—Section 404(k)(2)(A) (defining ap-
21	plicable dividends) is amended by striking "or" at the end
22	of clause (ii), by redesignating clause (iii) as clause (iv),
23	and by inserting after clause (ii) the following new clause:
24	"(iii) is, at the election of such partici-
25	pants or their beneficiaries—

1	"(I) payable as provided in clause
2	(i) or (ii), or
3	"(II) paid to the plan and rein-
4	vested in qualifying employer securi-
5	ties, or".
6	(b) STANDARDS FOR DISALLOWANCE.—Section
7	404(k)(5)(A) (relating to disallowance of deduction) is
8	amended by inserting "avoidance or" before "evasion".
9	(c) Effective Date.—The amendments made by this
10	section shall apply to taxable years beginning after Decem-
11	ber 31, 2001.
12	SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-
13	TAIN HIGHLY COMPENSATED EMPLOYEES.
14	(a) In General.—Paragraph (4) of section 1114(c)
15	of the Tax Reform Act of 1986 is hereby repealed.
16	(b) Effective Date.—The repeal made by subsection
17	(a) shall apply to plan years beginning after December 31,
18	2001.
19	SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.
20	(a) In General.—The Secretary of the Treasury shall
21	modify Treasury Regulations section 1.410(b)-6(g) to pro-
22	vide that employees of an organization described in section
23	403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who
24	are eligible to make contributions under section 403(b) of
25	such Code pursuant to a salary reduction agreement may

- be treated as excludable with respect to a plan under section 401(k) or (m) of such Code that is provided under the same general arrangement as a plan under such section 401(k), 4 if— (1) no employee of an organization described in 5 6 section 403(b)(1)(A)(i) of such Code is eligible to par-7 ticipate in such section 401(k) plan or section 401(m) 8 plan; and 9 (2) 95 percent of the employees who are not em-10 ployees of an organization described in section 11 403(b)(1)(A)(i) of such Code are eligible to partici-12 pate in such plan under such section 401(k) or (m). 13 (b) Effective Date.—The modification required by subsection (a) shall apply as of the same date set forth in 14 15 section 1426(b) of the Small Business Job Protection Act 16 of 1996. SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-18 PROVIDED RETIREMENT ADVICE. 19 (a) In General.—Subsection (a) of section 132 (relat-20 ing to exclusion from gross income) is amended by striking 21 "or" at the end of paragraph (5), by striking the period 22 at the end of paragraph (6) and inserting ", or", and by
- 24 "(7) qualified retirement planning services.".

adding at the end the following new paragraph:

23

(b) Qualified Retirement Planning Services De-1 FINED.—Section 132 is amended by redesignating subsection (m) as subsection (n) and by inserting after sub-3 4 section (l) the following: 5 "(m) Qualified Retirement Planning 6 ICES.— "(1) In General.—For purposes of this section. 7 8 the term 'qualified retirement planning services' 9 means any retirement planning advice or informa-10 tion provided to an employee and his spouse by an 11 employer maintaining a qualified employer plan. 12 "(2)Nondiscrimination Rule.—Subsection 13 (a)(7) shall apply in the case of highly compensated 14 employees only if such services are available on sub-15 stantially the same terms to each member of the group 16 of employees normally provided education and infor-17 mation regarding the employer's qualified employer 18 plan. 19 "(3) Qualified employer plan.—For purposes 20 of this subsection, the term 'qualified employer plan' 21 means a plan, contract, pension, or account described 22 in section 219(q)(5).". 23 (c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 25 2001.

1 SEC. 606. REPORTING SIMPLIFICATION.

2	(a) Simplified Annual Filing Requirement for
3	Owners and Their Spouses.—
4	(1) In general.—The Secretary of the Treasury
5	and the Secretary of Labor shall modify the require-
6	ments for filing annual returns with respect to one-
7	participant retirement plans to ensure that such
8	plans with assets of \$250,000 or less as of the close
9	of the plan year need not file a return for that year.
10	(2) One-participant retirement plan de-
11	FINED.—For purposes of this subsection, the term
12	"one-participant retirement plan" means a retire-
13	ment plan that—
14	(A) on the first day of the plan year—
15	(i) covered only the employer (and the
16	employer's spouse) and the employer owned
17	the entire business (whether or not incor-
18	porated); or
19	(ii) covered only one or more partners
20	(and their spouses) in a business partner-
21	ship (including partners in an S or C cor-
22	poration);
23	(B) meets the minimum coverage require-
24	ments of section 410(b) of the Internal Revenue
25	Code of 1986 without being combined with any

1	other plan of the business that covers the employ-
2	ees of the business;
3	(C) does not provide benefits to anyone ex-
4	cept the employer (and the employer's spouse) or
5	the partners (and their spouses);
6	(D) does not cover a business that is a
7	member of an affiliated service group, a con-
8	trolled group of corporations, or a group of busi-
9	nesses under common control; and
10	(E) does not cover a business that leases em-
11	ployees.
12	(3) Other definitions.—Terms used in para-
13	graph (2) which are also used in section 414 of the
14	Internal Revenue Code of 1986 shall have the respec-
15	tive meanings given such terms by such section.
16	(b) Simplified Annual Filing Requirement for
17	Plans With Fewer Than 25 Employees.—In the case
18	of plan years beginning after December 31, 2002, the Sec-
19	retary of the Treasury and the Secretary of Labor shall pro-
20	vide for the filing of a simplified annual return for any
21	retirement plan which covers less than 25 employees on the
22	first day of a plan year and which meets the requirements
23	described in subparagraphs (B), (D), and (E) of subsection
24	(a)(2).

1	(c) Effective Date.—The provisions of this section
2	shall take effect on January 1, 2002.
3	SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-
4	ANCE RESOLUTION SYSTEM.
5	The Secretary of the Treasury shall continue to update
6	and improve the Employee Plans Compliance Resolution
7	System (or any successor program) giving special attention
8	to—
9	(1) increasing the awareness and knowledge of
10	small employers concerning the availability and use
11	of the program;
12	(2) taking into account special concerns and cir-
13	cumstances that small employers face with respect to
14	compliance and correction of compliance failures;
15	(3) extending the duration of the self-correction
16	period under the Self-Correction Program for signifi-
17	cant compliance failures;
18	(4) expanding the availability to correct insig-
19	nificant compliance failures under the Self-Correction
20	Program during audit; and
21	(5) assuring that any tax, penalty, or sanction
22	that is imposed by reason of a compliance failure is
23	not excessive and bears a reasonable relationship to
24	the nature extent and severity of the failure.

1	SEC. 608. REPEAL OF THE MULTIPLE USE TEST.
2	(a) In General.—Paragraph (9) of section 401(m) is
3	amended to read as follows:
4	"(9) Regulations.—The Secretary shall pre-
5	scribe such regulations as may be necessary to carry
6	out the purposes of this subsection and subsection (k),
7	including regulations permitting appropriate aggre-
8	gation of plans and contributions.".
9	(b) Effective Date.—The amendment made by this
10	section shall apply to years beginning after December 31,
11	2001.
12	SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-
	EDACE AND LINE OF BUILDINESS BUILDS
13	ERAGE, AND LINE OF BUSINESS RULES.
13 14	(a) Nondiscrimination.—
14	(a) Nondiscrimination.—
14 15	(a) Nondiscrimination.— (1) In General.—The Secretary of the Treasury
141516	(a) Nondiscrimination.— (1) In general.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be
14151617	(a) Nondiscrimination.— (1) In general.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section
1415161718	(a) Nondiscrimination.— (1) In General.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if
14 15 16 17 18 19	(a) Nondiscrimination.— (1) In General.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test
14151617181920	(a) Nondiscrimination.— (1) In General.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect be-
14 15 16 17 18 19 20 21	(a) Nondiscrimination.— (1) In General.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section $401(a)(4)$ of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section $401(a)(4)$ of such Code, as in effect before January 1, 1994, but only if—

1	(B) the plan is submitted to the Secretary
2	for a determination of whether it satisfies such
3	test.
4	Subparagraph (B) shall only apply to the extent pro-
5	vided by the Secretary.
6	(2) Effective dates.—
7	(A) REGULATIONS.—The regulation re-
8	quired by paragraph (1) shall apply to years be-
9	ginning after December 31, 2003.
10	(B) Conditions of Availability.—Any
11	condition of availability prescribed by the Sec-
12	retary under paragraph (1)(A) shall not apply
13	before the first year beginning not less than 120
14	days after the date on which such condition is
15	prescribed.
16	(b) Coverage Test.—
17	(1) In general.—Section 410(b)(1) (relating to
18	minimum coverage requirements) is amended by add-
19	ing at the end the following:
20	"(D) In the case that the plan fails to meet
21	the requirements of subparagraphs (A), (B) and
22	(C), the plan—
23	"(i) satisfies subparagraph (B), as in
24	effect immediately before the enactment of
25	the Tax Reform Act of 1986,

1	"(ii) is submitted to the Secretary for
2	a determination of whether it satisfies the
3	requirement described in clause (i), and
4	"(iii) satisfies conditions prescribed by
5	the Secretary by regulation that appro-
6	priately limit the availability of this sub-
7	paragraph.
8	Clause (ii) shall apply only to the extent pro-
9	vided by the Secretary.".
10	(2) Effective dates.—
11	(A) In General.—The amendment made
12	by paragraph (1) shall apply to years beginning
13	after December 31, 2003.
14	(B) Conditions of availability.—Any
15	condition of availability prescribed by the Sec-
16	retary under regulations prescribed by the Sec-
17	retary under section $410(b)(1)(D)$ of the Internal
18	Revenue Code of 1986 shall not apply before the
19	first year beginning not less than 120 days after
20	the date on which such condition is prescribed.
21	(c) Line of Business Rules.—The Secretary of the
22	Treasury shall, on or before December 31, 2003, modify the
23	existing regulations issued under section 414(r) of the Inter-
24	nal Revenue Code of 1986 in order to expand (to the extent
25	that the Secretary determines appropriate) the ability of

1	a pension plan to demonstrate compliance with the line of
2	business requirements based upon the facts and cir-
3	cumstances surrounding the design and operation of the
4	plan, even though the plan is unable to satisfy the mechan-
5	ical tests currently used to determine compliance.
6	SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF
7	MORATORIUM ON APPLICATION OF CERTAIN
8	NONDISCRIMINATION RULES APPLICABLE TO
9	STATE AND LOCAL PLANS.
10	(a) In General.—
11	(1) Subparagraph (G) of section 401(a)(5) of the
12	Internal Revenue Code of 1986 and subparagraph
13	(H) of section $401(a)(26)$ are each amended by strik-
14	ing "section 414(d))" and all that follows and insert-
15	ing "section $414(d)$).".
16	(2) Subparagraph (G) of section 401(k)(3) and
17	paragraph (2) of section 1505(d) of the Taxpayer Re-
18	lief Act of 1997 are each amended by striking "main-
19	tained by a State or local government or political
20	subdivision thereof (or agency or instrumentality
21	thereof)".
22	(b) Conforming Amendments.—
23	(1) The heading for subparagraph (G) of section
24	401(a)(5) is amended to read as follows: "Govern-
25	MENTAL PLANS.—".

1	(2) The heading for subparagraph (H) of section
2	401(a)(26) is amended to read as follows: "Excep-
3	TION FOR GOVERNMENTAL PLANS.—".
4	(3) Subparagraph (G) of section $401(k)(3)$ is
5	amended by inserting "Governmental plans.—"
6	after " (G) ".
7	(c) Effective Date.—The amendments made by this
8	section shall apply to years beginning after December 31,
9	2001.
10	SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-
11	TRIBUTIONS.
12	(a) Expansion of Period.—
13	(1) Amendment of internal revenue
14	CODE.—
15	(A) In General.—Subparagraph (A) of
16	section $417(a)(6)$ is amended by striking "90-
17	day" and inserting "180-day".
18	(B) Modification of regulations.—The
19	Secretary of the Treasury shall modify the regu-
20	lations under sections 402(f), 411(a)(11), and
21	417 of the Internal Revenue Code of 1986 to sub-
22	stitute "180 days" for "90 days" each place it
23	appears in Treasury Regulations sections
24	1.402(f)-1.1.411(a)-11(c), and $1.417(e)-1(b)$.

1	(2) Amendment of Erisa.—Section
2	205(c)(7)(A) of the Employee Retirement Income Se-
3	curity Act of 1974 (29 U.S.C. $1055(c)(7)(A)$) is
4	amended by striking "90-day" and inserting "180-
5	day".
6	(3) Effective date.—The amendments made
7	by paragraph (1)(A) and (2) and the modifications
8	required by paragraph (1)(B) shall apply to years be-
9	ginning after December 31, 2001.
10	(b) Consent Regulation Inapplicable to Certain
11	Distributions.—
12	(1) In general.—The Secretary of the Treasury
13	shall modify the regulations under section 411(a)(11)
14	of the Internal Revenue Code of 1986 to provide that
15	the description of a participant's right, if any, to
16	defer receipt of a distribution shall also describe the
17	consequences of failing to defer such receipt.
18	(2) Effective date.—The modifications re-
19	quired by paragraph (1) shall apply to years begin-
20	ning after December 31, 2001.
21	SEC. 612. ANNUAL REPORT DISSEMINATION.
22	(a) Report Available Through Electronic
23	Means.—Section 104(b)(3) of the Employee Retirement In-
24	come Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amend-
25	ed by adding at the end the following new sentence: "The

1	requirement to furnish information under the previous sen-
2	tence shall be satisfied if the administrator makes such in-
3	formation reasonably available through electronic means or
4	other new technology.".
5	(b) Effective Date.—The amendment made by this
6	section shall apply to reports for years beginning after De-
7	cember 31, 2000.
8	SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.
9	Section 517 of the Employee Retirement Income Secu-
10	rity Act of 1974 (29 U.S.C. 1147) is amended—
11	(1) in subsection (a), by striking "2001 and
12	2005 on or after September 1 of each year involved"
13	and inserting "2001, 2005, and 2009 in the month of
14	September of each year involved";
15	(2) in subsection (b), by adding at the end the
16	following new sentence: "To effectuate the purposes of
17	this paragraph, the Secretary may enter into a coop-
18	erative agreement, pursuant to the Federal Grant and
19	Cooperative Agreement Act of 1977 (31 U.S.C. 6301
20	et seq.), with the American Savings Education Coun-
21	cil.";
22	(3) in subsection $(e)(2)$ —
23	(A) by striking "Committee on Labor and
24	Human Resources" in subparagraph (D) and in-

1	serting "Committee on Health, Education,
2	Labor, and Pensions";
3	(B) by striking subparagraph (F) and in-
4	serting the following:
5	"(F) the Chairman and Ranking Member of
6	the Subcommittee on Labor, Health and Human
7	Services, and Education of the Committee on
8	Appropriations of the House of Representatives
9	and the Chairman and Ranking Member of the
10	Subcommittee on Labor, Health and Human
11	Services, and Education of the Committee on
12	Appropriations of the Senate;";
13	(C) by redesignating subparagraph (G) as
14	subparagraph (J); and
15	(D) by inserting after subparagraph (F) the
16	following new subparagraphs:
17	"(G) the Chairman and Ranking Member of
18	the Committee on Finance of the Senate;
19	"(H) the Chairman and Ranking Member
20	of the Committee on Ways and Means of the
21	House of Representatives;
22	"(I) the Chairman and Ranking Member of
23	the Subcommittee on Employer-Employee Rela-
24	tions of the Committee on Education and the
25	Workforce of the House of Representatives; and";

1	(4) in subsection $(e)(3)(A)$ —
2	(A) by striking "There shall be no more
3	than 200 additional participants." and inserting
4	"The participants in the National Summit shall
5	also include additional participants appointed
6	under this subparagraph.";
7	(B) by striking "one-half shall be appointed
8	by the President," in clause (i) and inserting
9	"not more than 100 participants shall be ap-
10	pointed under this clause by the President,", and
11	by striking "and" at the end of clause (i);
12	(C) by striking "one-half shall be appointed
13	by the elected leaders of Congress" in clause (ii)
14	and inserting "not more than 100 participants
15	shall be appointed under this clause by the elect-
16	ed leaders of Congress", and by striking the pe-
17	riod at the end of clause (ii) and inserting ";
18	and";
19	(D) by adding at the end the following new
20	clause:
21	"(iii) The President, in consultation
22	with the elected leaders of Congress referred
23	to in subsection (a), may appoint under
24	this clause additional participants to the
25	National Summit. The number of such ad-

1	ditional participants appointed under this
2	clause may not exceed the lesser of 3 percent
3	of the total number of all additional par-
4	ticipants appointed under this paragraph,
5	or 10. Such additional participants shall be
6	appointed from persons nominated by the
7	$organization \ referred \ to \ in \ subsection \ (b)(2)$
8	which is made up of private sector busi-
9	nesses and associations partnered with Gov-
10	ernment entities to promote long term fi-
11	nancial security in retirement through sav-
12	ings and with which the Secretary is re-
13	quired thereunder to consult and cooperate
14	and shall not be Federal, State, or local gov-
15	ernment employees.";
16	(5) in subsection (e)(3)(B), by striking "January
17	31, 1998" in subparagraph (B) and inserting "May
18	1, 2001, May 1, 2005, and May 1, 2009, for each of
19	the subsequent summits, respectively";
20	(6) in subsection $(f)(1)(C)$, by inserting ", no
21	later than 90 days prior to the date of the commence-
22	ment of the National Summit," after "comment" in
23	paragraph (1)(C):

1	(7) in subsection (g), by inserting ", in consulta-
2	tion with the congressional leaders specified in sub-
3	section (e)(2)," after "report";
4	(8) in subsection (i)—
5	(A) by striking 'beginning on or after Octo-
6	ber 1, 1997" in paragraph (1) and inserting
7	"2001, 2005, and 2009"; and
8	(B) by adding at the end the following new
9	paragraph:
10	"(3) Reception and representation author-
11	ITY.—The Secretary is hereby granted reception and
12	representation authority limited specifically to the
13	events at the National Summit. The Secretary shall
14	use any private contributions accepted in connection
15	with the National Summit prior to using funds ap-
16	propriated for purposes of the National Summit pur-
17	suant to this paragraph."; and
18	(9) in subsection (k)—
19	(A) by striking "shall enter into a contract
20	on a sole-source basis" and inserting "may enter
21	into a contract on a sole-source basis"; and
22	(B) by striking "fiscal year 1998" and in-
23	serting "fiscal years 2001, 2005, and 2009".

1 TITLE VII—OTHER ERISA 2 PROVISIONS

2	PROVISIONS
3	SEC. 701. MISSING PARTICIPANTS.
4	(a) In General.—Section 4050 of the Employee Re-
5	tirement Income Security Act of 1974 (29 U.S.C. 1350) is
6	amended by redesignating subsection (c) as subsection (e)
7	and by inserting after subsection (b) the following new sub-
8	sections:
9	"(c) Multiemployer Plans.—The corporation shall
10	prescribe rules similar to the rules in subsection (a) for mul-
11	tiemployer plans covered by this title that terminate under
12	section 4041A.
13	"(d) Plans Not Otherwise Subject to Title.—
14	"(1) Transfer to corporation.—The plan ad-
15	ministrator of a plan described in paragraph (4) may
16	elect to transfer a missing participant's benefits to the
17	corporation upon termination of the plan.
18	"(2) Information to the corporation.—To
19	the extent provided in regulations, the plan adminis-
20	trator of a plan described in paragraph (4) shall,
21	upon termination of the plan, provide the corporation
22	information with respect to benefits of a missing par-
23	ticipant if the plan transfers such benefits—
24	"(A) to the corporation, or

1	"(B) to an entity other than the corporation
2	or a plan described in paragraph $(4)(B)(ii)$.
3	"(3) Payment by the corporation.—If bene-
4	fits of a missing participant were transferred to the
5	corporation under paragraph (1), the corporation
6	shall, upon location of the participant or beneficiary,
7	pay to the participant or beneficiary the amount
8	transferred (or the appropriate survivor benefit)
9	either—
10	"(A) in a single sum (plus interest), or
11	"(B) in such other form as is specified in
12	regulations of the corporation.
13	"(4) Plans described in
14	this paragraph if—
15	"(A) the plan is a pension plan (within the
16	meaning of section $3(2)$)—
17	"(i) to which the provisions of this sec-
18	tion do not apply (without regard to this
19	subsection), and
20	"(ii) which is not a plan described in
21	paragraphs (2) through (11) of section
22	4021(b), and
23	"(B) at the time the assets are to be distrib-
24	uted upon termination, the plan—
25	"(i) has missing participants, and

1	"(ii) has not provided for the transfer
2	of assets to pay the benefits of all missing
3	participants to another pension plan (with-
4	in the meaning of section $3(2)$).
5	"(5) Certain provisions not to apply.—Sub-
6	sections (a)(1) and (a)(3) shall not apply to a plan
7	described in paragraph (4).".
8	(b) Effective Date.—The amendment made by this
9	section shall apply to distributions made after final regula-
10	tions implementing subsections (c) and (d) of section 4050
11	of the Employee Retirement Income Security Act of 1974
12	(as added by subsection (a)), respectively, are prescribed.
13	SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF
14	SMALL EMPLOYERS.
15	(a) In Chamber 9.1. (1) of anti-
	(a) In General.—Subparagraph (A) of section
16	(a) IN GENERAL.—Suoparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security
	4006(a)(3) of the Employee Retirement Income Security
17	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—
17 18	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended— (1) in clause (i), by inserting "other than a new
17 18 19	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended— (1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph
17 18 19 20	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended— (1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so de-
17 18 19 20 21	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended— (1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined)," after "single-employer plan,",
17 18 19 20 21 22	4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended— (1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined)," after "single-employer plan,", (2) in clause (iii), by striking the period at the

- 1 "(iv) in the case of a new single-employer plan
- 2 (as defined in subparagraph (F)) maintained by a
- 3 small employer (as so defined) for the plan year, \$5
- 4 for each individual who is a participant in such plan
- 5 during the plan year.".
- 6 (b) Definition of New Single-Employer Plan.—
- 7 Section 4006(a)(3) of the Employee Retirement Income Se-
- 8 curity Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by
- 9 adding at the end the following new subparagraph:
- " (F)(i) For purposes of this paragraph, a single-em-
- 11 ployer plan maintained by a contributing sponsor shall be
- 12 treated as a new single-employer plan for each of its first
- 13 5 plan years if, during the 36-month period ending on the
- 14 date of the adoption of such plan, the sponsor or any mem-
- 15 ber of such sponsor's controlled group (or any predecessor
- 16 of either) did not establish or maintain a plan to which
- 17 this title applies with respect to which benefits were accrued
- 18 for substantially the same employees as are in the new sin-
- 19 gle-employer plan.
- 20 "(ii)(I) For purposes of this paragraph, the term
- 21 'small employer' means an employer which on the first day
- 22 of any plan year has, in aggregation with all members of
- 23 the controlled group of such employer, 100 or fewer employ-
- 24 *ees.*

1	"(II) In the case of a plan maintained by two or more
2	contributing sponsors that are not part of the same con-
3	trolled group, the employees of all contributing sponsors and
4	controlled groups of such sponsors shall be aggregated for
5	purposes of determining whether any contributing sponsor
6	is a small employer.".
7	(c) Effective Date.—The amendments made by this
8	section shall apply to plans established after December 31,
9	2001.
10	SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR
11	NEW AND SMALL PLANS.
12	(a) New Plans.—Subparagraph (E) of section
13	4006(a)(3) of the Employee Retirement Income Security
14	Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by add-
15	ing at the end the following new clause:
16	"(v) In the case of a new defined benefit plan, the
17	amount determined under clause (ii) for any plan year
18	shall be an amount equal to the product of the amount de-
19	termined under clause (ii) and the applicable percentage.
20	For purposes of this clause, the term 'applicable percentage'
21	means—
22	"(I) 0 percent, for the first plan year.
23	"(II) 20 percent, for the second plan year.
24	"(III) 40 percent, for the third plan year.

"(IV) 60 percent, for the fourth plan year.

25

"(V) 80 percent, for the fifth plan year. 1 For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the 8 sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect 10 to which benefits were accrued for substantially the same employees as are in the new plan.". 12 (b) Small Plans.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 702(b), is 14 15 amended— (1) by striking "The" in subparagraph (E)(i) 16 17 and inserting "Except as provided in subparagraph 18 (G), the", and 19 (2) by inserting after subparagraph (F) the fol-20 lowing new subparagraph: 21 "(G)(i) In the case of an employer who has 25 or fewer 22 employees on the first day of the plan year, the additional 23 premium determined under subparagraph (E) for each participant shall not exceed \$5 multiplied by the number of

1	participants in the plan as of the close of the preceding plan
2	year.
3	"(ii) For purposes of clause (i), whether an employer
4	has 25 or fewer employees on the first day of the plan year
5	is determined taking into consideration all of the employees
6	of all members of the contributing sponsor's controlled
7	group. In the case of a plan maintained by two or more
8	contributing sponsors, the employees of all contributing
9	sponsors and their controlled groups shall be aggregated for
10	purposes of determining whether the 25-or-fewer-employees
11	limitation has been satisfied.".
12	(c) Effective Dates.—
13	(1) Subsection (a).—The amendments made by
14	subsection (a) shall apply to plans established after
15	December 31, 2001.
16	(2) Subsection (b).—The amendments made by
17	subsection (b) shall apply to plan years beginning
18	after December 31, 2001.
19	SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON
20	PREMIUM OVERPAYMENT REFUNDS.
21	(a) In General.—Section 4007(b) of the Employment
22	Retirement Income Security Act of 1974 (29 U.S.C.
23	1307(b)) is amended—
24	(1) by striking "(b)" and inserting "(b)(1)", and

1	(2) by inserting at the end the following neu
2	paragraph:
3	"(2) The corporation is authorized to pay, subject to
4	regulations prescribed by the corporation, interest on the
5	amount of any overpayment of premium refunded to a des-
6	ignated payor. Interest under this paragraph shall be cal-
7	culated at the same rate and in the same manner as interest
8	is calculated for underpayments under paragraph (1).".
9	(b) Effective Date.—The amendment made by sub-
10	section (a) shall apply to interest accruing for periods be-
11	ginning not earlier than the date of the enactment of this
12	Act.
13	SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED
14	PLANS.
15	(a) Modification of Phase-In of Guarantee.—
16	
	Section 4022(b)(5) of the Employee Retirement Income Se-
17	Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to
17	
17	curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to
17 18 19	curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:
17 18 19 20	curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows: "(5)(A) For purposes of this paragraph, the term 'ma-
17 18 19 20 21	curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows: "(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during
17 18 19 20 21	curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows: "(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination

1	"(ii) in the case of a partnership, is a partner
2	who owns, directly or indirectly, 50 percent or more
3	of either the capital interest or the profits interest in
4	such partnership, or
5	"(iii) in the case of a corporation, owns, directly
6	or indirectly, 50 percent or more in value of either the
7	voting stock of that corporation or all the stock of that
8	corporation.
9	For purposes of clause (iii), the constructive ownership
10	rules of section 1563(e) of the Internal Revenue Code of
11	1986 shall apply (determined without regard to section
12	1563(e)(3)(C)).
13	"(B) In the case of a participant who is a majority
14	owner, the amount of benefits guaranteed under this section
15	shall equal the product of—
16	"(i) a fraction (not to exceed 1) the numerator
17	of which is the number of years from the later of the
18	effective date or the adoption date of the plan to the
19	termination date, and the denominator of which is
20	10, and
21	"(ii) the amount of benefits that would be guar-
22	anteed under this section if the participant were not
23	a majority owner.".
24	(b) Modification of Allocation of Assets.—

1	(1) Section $4044(a)(4)(B)$ of the Employee Re-
2	tirement Income Security Act of 1974 (29 U.S.C.
3	1344(a)(4)(B)) is amended by striking "section
4	4022(b)(5)" and inserting "section 4022(b)(5)(B)".
5	(2) Section 4044(b) of such Act (29 U.S.C.
6	1344(b)) is amended—
7	(A) by striking "(5)" in paragraph (2) and
8	inserting "(4), (5),", and
9	(B) by redesignating paragraphs (3)
10	through (6) as paragraphs (4) through (7), re-
11	spectively, and by inserting after paragraph (2)
12	the following new paragraph:
13	"(3) If assets available for allocation under
14	paragraph (4) of subsection (a) are insufficient to sat-
15	isfy in full the benefits of all individuals who are de-
16	scribed in that paragraph, the assets shall be allocated
17	first to benefits described in subparagraph (A) of that
18	paragraph. Any remaining assets shall then be allo-
19	cated to benefits described in subparagraph (B) of
20	that paragraph. If assets allocated to such subpara-
21	graph (B) are insufficient to satisfy in full the bene-
22	fits described in that subparagraph, the assets shall be
23	allocated pro rata among individuals on the basis of
24	the present value (as of the termination date) of their
25	respective benefits described in that subparagraph.".

1	(c) Conforming Amendments.—
2	(1) Section 4021 of the Employee Retirement In-
3	come Security Act of 1974 (29 U.S.C. 1321) is
4	amended—
5	(A) in subsection (b)(9), by striking "as de-
6	fined in section 4022(b)(6)", and
7	(B) by adding at the end the following new
8	subsection:
9	"(d) For purposes of subsection (b)(9), the term 'sub-
10	stantial owner' means an individual who, at any time dur-
11	ing the 60-month period ending on the date the determina-
12	tion is being made—
13	"(1) owns the entire interest in an unincor-
14	porated trade or business,
15	"(2) in the case of a partnership, is a partner
16	who owns, directly or indirectly, more than 10 per-
17	cent of either the capital interest or the profits inter-
18	est in such partnership, or
19	"(3) in the case of a corporation, owns, directly
20	or indirectly, more than 10 percent in value of either
21	the voting stock of that corporation or all the stock of
22	that corporation.
23	For purposes of paragraph (3), the constructive ownership
24	rules of section 1563(e) of the Internal Revenue Code or

1	1986 shall apply (determined without regard to section
2	1563(e)(3)(C)).".
3	(2) Section $4043(c)(7)$ of such Act (29 U.S.C.
4	1343(c)(7)) is amended by striking "section $4022(b)(6)$ "
5	and inserting "section 4021(d)".
6	(d) Effective Dates.—
7	(1) In general.—Except as provided in para-
8	graph (2), the amendments made by this section shall
9	apply to plan terminations—
10	(A) under section 4041(c) of the Employee
11	Retirement Income Security Act of 1974 (29
12	U.S.C. 1341(c)) with respect to which notices of
13	intent to terminate are provided under section
14	4041(a)(2) of such Act (29 U.S.C. $1341(a)(2)$)
15	after December 31, 2001, and
16	(B) under section 4042 of such Act (29
17	U.S.C. 1342) with respect to which proceedings
18	are instituted by the corporation after such date.
19	(2) Conforming amendments.—The amend-
20	ments made by subsection (c) shall take effect on Jan-
21	uary 1, 2002.
22	SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RE-
23	SPONSIBILITY.
24	(a) Imposition and Amount of Penalty Made Dis-
25	CRETIONARY.—Section 502(l)(1) of the Employee Retire-

- 1 ment Income Security Act of 1974 (29 U.S.C. 1132(l)(1))
- 2 is amended—
- 3 (1) by striking "shall" and inserting "may",
- 4 *and*
- 5 (2) by striking "equal to" and inserting "not
- 6 greater than".
- 7 (b) Applicable Recovery Amount.—Section
- 8 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended to
- 9 read as follows:
- 10 "(2) For purposes of paragraph (1), the term 'applica-
- 11 ble recovery amount' means any amount which is recovered
- 12 from any fiduciary or other person (or from any other per-
- 13 son on behalf of any such fiduciary or other person) with
- 14 respect to a breach or violation described in paragraph (1)
- 15 on or after the 30th day following receipt by such fiduciary
- 16 or other person of written notice from the Secretary of the
- 17 violation, whether paid voluntarily or by order of a court
- 18 in a judicial proceeding instituted by the Secretary under
- 19 subsection (a)(2) or (a)(5). The Secretary may, in the Sec-
- 20 retary's sole discretion, extend the 30-day period described
- 21 in the preceding sentence.".
- 22 (c) Other Rules.—Section 502(l) of the Employee
- 23 Retirement Income Security Act of 1974 (29 U.S.C.
- 24 1132(l)) is amended by adding at the end the following new
- 25 paragraph:

- 1 "(5) A person shall be jointly and severally liable for
- 2 the penalty described in paragraph (1) to the same extent
- 3 that such person is jointly and severally liable for the appli-
- 4 cable recovery amount on which the penalty is based.
- 5 "(6) No penalty shall be assessed under this subsection
- 6 unless the person against whom the penalty is assessed is
- 7 given notice and opportunity for a hearing with respect to
- 8 the violation and applicable recovery amount.".

9 *(d) Effective Dates.*—

- 10 (1) IN GENERAL.—The amendments made by
 11 this section shall apply to any breach of fiduciary re12 sponsibility or other violation of part 4 of subtitle B
 13 of title I of the Employee Retirement Income Security
 14 Act of 1974 occurring on or after the date of enact15 ment of this Act.
 - (2) Transition rule.—In applying the amendment made by subsection (b) (relating to applicable recovery amount), a breach or other violation occurring before the date of enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

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1 SEC. 707. BENEFIT SUSPENSION NOTICE.

2	(a) Modification of Regulation.—The Secretary of
3	Labor shall modify the regulation under section
4	203(a)(3)(B) of the Employee Retirement Income Security
5	Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the
6	notification required by such regulation—
7	(1) in the case of an employee who returns to
8	work for a former employer after commencement of
9	payment of benefits under the plan shall—
10	(A) be made during the first calendar
11	month or payroll period in which the plan with-
12	holds payments, and
13	(B) if a reduced rate of future benefit accru-
14	als will apply to the returning employee (as of
15	the first date of participation in the plan by the
16	employee after returning to work), include a
17	statement that the rate of future benefit accruals
18	will be reduced, and
19	(2) in the case of any employee who is not de-
20	scribed in paragraph (1)—
21	(A) may be included in the summary plan
22	description for the plan furnished in accordance
23	with section 104(b) of such Act (29 U.S.C.
24	1024(b)), rather than in a separate notice, and
25	(B) need not include a copy of the relevant
26	plan provisions.

1	(b) Effective Date.—The modification made under
2	this section shall apply to plan years beginning after De-
3	cember 31, 2001.
4	TITLE VIII—PLAN AMENDMENTS
5	SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.
6	(a) In General.—If this section applies to any plan
7	or contract amendment—
8	(1) such plan or contract shall be treated as
9	being operated in accordance with the terms of the
10	plan during the period described in subsection
11	(b)(2)(A); and
12	(2) except as provided by the Secretary of the
13	Treasury, such plan shall not fail to meet the require-
14	ments of section $411(d)(6)$ of the Internal Revenue
15	Code of 1986 or section 204(g) of the Employee Re-
16	tirement Income Security Act of 1974 by reason of
17	such amendment.
18	(b) Amendments to Which Section Applies.—
19	(1) In general.—This section shall apply to
20	any amendment to any plan or annuity contract
21	which is made—
22	(A) pursuant to any amendment made by
23	this Act, or pursuant to any regulation issued
24	under this Act; and

1	(B) on or before the last day of the first
2	plan year beginning on or after January 1,
3	2004.
4	In the case of a governmental plan (as defined in sec-
5	tion 414(d) of the Internal Revenue Code of 1986),
6	this paragraph shall be applied by substituting
7	"2006" for "2004".
8	(2) Conditions.—This section shall not apply to
9	any amendment unless—
10	(A) during the period—
11	(i) beginning on the date the legislative
12	or regulatory amendment described in para-
13	graph (1)(A) takes effect (or in the case of
14	a plan or contract amendment not required
15	by such legislative or regulatory amend-
16	ment, the effective date specified by the
17	plan); and
18	(ii) ending on the date described in
19	paragraph (1)(B) (or, if earlier, the date the
20	plan or contract amendment is adopted),
21	the plan or contract is operated as if such plan
22	or contract amendment were in effect; and
23	(B) such plan or contract amendment ap-
24	plies retroactively for such period.

- 1 SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-
- 2 TENTS.
- 3 (a) SHORT TITLE.—This Act may be cited as
- 4 the "Comprehensive Retirement Security and
- 5 Pension Reform Act of 2001".
- 6 **(b)** AMENDMENT OF 1986 CODE.—Except as
- 7 otherwise expressly provided, whenever in
- 8 this Act an amendment or repeal is expressed
- 9 in terms of an amendment to, or repeal of, a
- 10 section or other provision, the reference shall
- 11 be considered to be made to a section or other
- 12 provision of the Internal Revenue Code of
- 13 **1986.**
- 14 (c) TABLE OF CONTENTS.—The table of con-
- 15 tents of this Act is as follows:
 - Sec. 1. Short title; references; table of contents.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS

Sec. 101. Modification of IRA contribution limits.

TITLE II—EXPANDING COVERAGE

- Sec. 201. Increase in benefit and contribution limits.
- Sec. 202. Plan loans for subchapter S owners, partners, and sole proprietors.
- Sec. 203. Modification of top-heavy rules.
- Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.
- Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
- Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.
- Sec. 207. Deduction limits.
- Sec. 208. Option to treat elective deferrals as after-tax contributions.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

- Sec. 301. Catch-up contributions for individuals age 50 or over.
- Sec. 302. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 303. Faster vesting of certain employer matching contributions.
- Sec. 304. Simplify and update the minimum distribution rules.
- Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 306. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.
- Sec. 402. Rollovers of IRAs into workplace retirement plans.
- Sec. 403. Rollovers of after-tax contributions.
- Sec. 404. Hardship exception to 60-day rule.
- Sec. 405. Treatment of forms of distribution.
- Sec. 406. Rationalization of restrictions on distributions.
- Sec. 407. Purchase of service credit in governmental defined benefit plans.
- Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 501. Repeal of percent of current liability funding limit.
- Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 503. Excise tax relief for sound pension funding.
- Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.
- Sec. 505. Treatment of multiemployer plans under section 415.
- Sec. 506. Protection of investment of employee contributions to 401(k) plans.
- Sec. 507. Periodic pension benefits statements.
- Sec. 508. Prohibited allocations of stock in S corporation ESOP.

TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.
- Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 604. Employees of tax-exempt entities.
- Sec. 605. Clarification of treatment of employer-provided retirement advice.
- Sec. 606. Reporting simplification.

- Sec. 607. Improvement of employee plans compliance resolution system.
- Sec. 608. Repeal of the multiple use test.
- Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 611. Notice and consent period regarding distributions.
- Sec. 612. Annual report dissemination.
- Sec. 613. Technical corrections to SAVER Act.

TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.
- Sec. 702. Reduced PBGC premium for new plans of small employers.
- Sec. 703. Reduction of additional PBGC premium for new and small plans.
- Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.
- Sec. 705. Substantial owner benefits in terminated plans.
- Sec. 706. Civil penalties for breach of fiduciary responsibility.
- Sec. 707. Benefit suspension notice.
- Sec. 708. Studies.

TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

1 TITLE I—INDIVIDUAL

2 RETIREMENT ACCOUNTS

- 3 SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.
- 4 (a) INCREASE IN CONTRIBUTION LIMIT.—
- 5 (1) IN GENERAL.—Paragraph (1)(A) of
- 6 section 219(b) (relating to maximum
- 7 amount of deduction) is amended by
- 8 striking "\$2,000" and inserting "the de-
- 9 **ductible amount**".
- 10 (2) **DEDUCTIBLE** AMOUNT.—Section
- 11 **219(b)** is amended by adding at the end
- the following new paragraph:

1	"(5) DEDUCTIBLE AMOUNT.—For pur-
2	poses of paragraph (1)(A)—
3	"(A) In general.—The deductible
4	amount shall be determined in ac-
5	cordance with the following table:
	"For taxable years The deductible amount is: 2001 \$3,000 2002 \$4,000 2003 and thereafter \$5,000
6	"(B) CATCH-UP CONTRIBUTIONS FOR
7	INDIVIDUALS 50 OR OLDER.—In the case
8	of an individual who has attained the
9	age of 50 before the close of the tax-
10	able year, the deductible amount for
11	taxable years beginning in 2001 or
12	2002 shall be \$5,000.
13	"(C) Cost-of-living adjustment.—
14	"(i) In general.—In the case
15	of any taxable year beginning in a
16	calendar year after 2003, the
17	\$5,000 amount under subpara-
18	graph (A) shall be increased by an
19	amount equal to—
20	"(I) such dollar amount,
21	multiplied by
22	"(II) the cost-of-living ad-
23	justment determined under

1	section $1(f)(3)$ for the cal-
2	endar year in which the tax-
3	able year begins, determined
4	by substituting 'calendar year
5	2002' for 'calendar year 1992'
6	in subparagraph (B) thereof.
7	"(ii) ROUNDING RULES.—If any
8	amount after adjustment under
9	clause (i) is not a multiple of \$500,
10	such amount shall be rounded to
11	the next lower multiple of \$500.".
12	(b) CONFORMING AMENDMENTS.—
13	(1) Section 408(a)(1) is amended by
14	striking "in excess of \$2,000 on behalf of
15	any individual" and inserting "on behalf
16	of any individual in excess of the amount
17	in effect for such taxable year under sec-
18	tion 219(b)(1)(A)".
19	(2) Section 408(b)(2)(B) is amended by
20	striking "\$2,000" and inserting "the dollar
21	amount in effect under section
22	219(b)(1)(A)".
23	(3) Section 408(b) is amended by
24	striking "\$2,000" in the matter following

paragraph (4) and inserting "the dollar

1	amount in effect under section	n
2	219(b)(1)(A)".	
3	(4) Section 408(j) is amended by stri	k-
4	ing "\$2,000".	
5	(5) Section $408(p)(8)$ is amended k	у
6	striking "\$2,000" and inserting "the dolla	ar
7	amount in effect under section	n
8	219(b)(1)(A)".	
9	(c) EFFECTIVE DATE.—The amendmen	ts
10	made by this section shall apply to taxab	le
11	years beginning after December 31, 2000.	
12	TITLE II—EXPANDING	
13	COVERAGE	
14	SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LI	М-
15	ITS.	
16	(a) DEFINED BENEFIT PLANS.—	
17	(1) DOLLAR LIMIT.—	
18	(A) Subparagraph (A) of section	n
19	415(b)(1) (relating to limitation for d	e -
20	fined benefit plans) is amended k	y
21	striking "\$90,000" and insertir	ıg
22	"\$160,000".	
23	(B) Subparagraphs (C) and (D)	of
24	section 415(b)(2) are each amended b	у
25	striking "\$90,000" each place it a	p-

- pears in the headings and the text and inserting "\$160,000".
 - (C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking "the greater of \$68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for "\$90,000" and inserting "one-half the amount otherwise applicable for such year under paragraph (1)(A) for "\$160,000".
 - (2) LIMIT REDUCED WHEN BENEFIT BE-GINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 62" and by striking the second sentence.
 - (3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 65".

1	(4) Cost-of-living adjustments.—
2	Subsection (d) of section 415 (related to
3	cost-of-living adjustments) is amended—
4	(A) by striking "\$90,000" in para-
5	graph (1)(A) and inserting "\$160,000";
6	and
7	(B) in paragraph (3)(A)—
8	(i) by striking "\$90,000" in the
9	heading and inserting "\$160,000";
10	and
11	(ii) by striking "October 1,
12	1986" and inserting "July 1, 2000".
13	(5) Conforming amendments.—
14	(A) Section 415(b)(2) is amended
15	by striking subparagraph (F).
16	(B) Section 415(b)(9) is amended
17	to read as follows:
18	"(9) SPECIAL RULE FOR COMMERCIAL
19	AIRLINE PILOTS.—
20	"(A) In GENERAL.—Except as
21	provided in subparagraph (B), in
22	the case of any participant who is
23	a commercial airline pilot, if, as of
24	the time of the participant's re-
25	tirement, regulations prescribed

1	by the Federal Aviation Adminis-
2	tration require an individual to
3	separate from service as a com-
4	mercial airline pilot after attain-
5	ing any age occurring on or after
6	age 60 and before age 62, para-
7	graph (2)(C) shall be applied by
8	substituting such age for age 62.
9	"(B) INDIVIDUALS WHO SEPA-
10	RATE FROM SERVICE BEFORE AGE
11	60.—If a participant described in
12	subparagraph (A) separates from
13	service before age 60, the rules of
14	paragraph (2)(C) shall apply.".
15	(C) Section $415(b)(10)(C)(i)$ is
16	amended by striking "applied without
17	regard to paragraph (2)(F)".
18	(b) DEFINED CONTRIBUTION PLANS.—
19	(1) DOLLAR LIMIT.—Subparagraph (A)
20	of section 415(c)(1) (relating to limitation
21	for defined contribution plans) is amend-
22	ed by striking "\$30,000" and inserting

"\$40,000".

1	(2) Cost-of-living adjustments.—
2	Subsection (d) of section 415 (related to
3	cost-of-living adjustments) is amended—
4	(A) by striking "\$30,000" in para-
5	graph (1)(C) and inserting "\$40,000";
6	and
7	(B) in paragraph (3)(D)—
8	(i) by striking "\$30,000" in the
9	heading and inserting "\$40,000";
10	and
11	(ii) by striking "October 1,
12	1993" and inserting "July 1, 2000".
13	(c) QUALIFIED TRUSTS.—
14	(1) COMPENSATION LIMIT.—Sections
15	401(a)(17), 404(l), 408(k), and 505(b)(7) are
16	each amended by striking "\$150,000" each
17	place it appears and inserting "\$200,000".
18	(2) BASE PERIOD AND ROUNDING OF
19	COST-OF-LIVING ADJUSTMENT.—Subpara-
20	graph (B) of section 401(a)(17) is
21	amended—
22	(A) by striking "October 1, 1993"
23	and inserting "July 1, 2000"; and

1	(B) by striking "\$10,000" both
2	places it appears and inserting
3	"\$5,000".
4	(d) Elective Deferrals.—
5	(1) IN GENERAL.—Paragraph (1) of sec-
6	tion 402(g) (relating to limitation on ex-
7	clusion for elective deferrals) is amended
8	to read as follows:
9	"(1) IN GENERAL.—
10	"(A) LIMITATION.—Notwith-
11	standing subsections (e)(3) and
12	(h)(1)(B), the elective deferrals of any
13	individual for any taxable year shall
14	be included in such individual's gross
15	income to the extent the amount of
16	such deferrals for the taxable year ex-
17	ceeds the applicable dollar amount.
18	"(B) APPLICABLE DOLLAR AMOUNT.—
19	For purposes of subparagraph (A),
20	the applicable dollar amount shall be
21	the amount determined in accord-
22	ance with the following table:
	"For taxable years The applicable beginning in dollar amount: calendar year: 2001
	2002\$12,000 2003\$13,000

$\boldsymbol{2004}$. \$14,000
2005	or thereafter	. \$15,000.".

- 1 (2) COST-OF-LIVING ADJUSTMENT.—
 2 Paragraph (5) of section 402(g) is amend3 ed to read as follows:
 - "(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the \$15,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500."

(3) CONFORMING AMENDMENTS.—

(A) Section 402(g) (relating to limitation on exclusion for elective deferrals), as amended by paragraphs (1) and (2), is further amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

1	(B) Paragraph (2) of section 457(c)
2	is amended by striking
3	"402(g)(8)(A)(iii)" and inserting
4	"402(g)(7)(A)(iii)".
5	(C) Clause (iii) of section
6	501(c)(18)(D) is amended by striking
7	"(other than paragraph (4) thereof)".
8	(e) DEFERRED COMPENSATION PLANS OF
9	STATE AND LOCAL GOVERNMENTS AND TAX-Ex-
10	EMPT ORGANIZATIONS.—
11	(1) In General.—Section 457 (relating
12	to deferred compensation plans of State
13	and local governments and tax-exempt
14	organizations) is amended—
15	(A) in subsections $(b)(2)(A)$ and
16	(c)(1) by striking "\$7,500" each place
17	it appears and inserting "the applica-
18	ble dollar amount"; and
19	(B) in subsection $(b)(3)(A)$ by
20	striking "\$15,000" and inserting
21	"twice the dollar amount in effect
22	under subsection (b)(2)(A)".
23	(2) APPLICABLE DOLLAR AMOUNT; COST-
24	OF-LIVING ADJUSTMENT —Paragraph (15) of

1	section 457(e) is amended to read as fol-
2	lows:
3	"(15) APPLICABLE DOLLAR AMOUNT.—
4	"(A) In GENERAL.—The applicable
5	dollar amount shall be the amount
6	determined in accordance with the
7	following table:
	"For taxable years The applicable dollar amounts dollar amounts calendar year: 2001 \$11,000 2002 \$12,000 2003 \$13,000 2004 \$14,000 2005 or thereafter \$15,000
8	"(B) COST-OF-LIVING ADJUST-
9	MENTS.—In the case of taxable years
10	beginning after December 31, 2005,
11	the Secretary shall adjust the \$15,000
12	amount under subparagraph (A) at
13	the same time and in the same man-
14	ner as under section 415(d), except
15	that the base period shall be the cal-
16	endar quarter beginning July 1, 2004,
17	and any increase under this para-
18	graph which is not a multiple of \$500
19	shall be rounded to the next lowest
20	multiple of \$500.".
21	(f) SIMPLE RETIREMENT ACCOUNTS.—

1	(1) LIMITATION.—Clause (ii) of section
2	408(p)(2)(A) (relating to general rule for
3	qualified salary reduction arrangement)
4	is amended by striking "\$6,000" and in-
5	serting "the applicable dollar amount".
6	(2) APPLICABLE DOLLAR AMOUNT.—Sub-
7	paragraph (E) of 408(p)(2) is amended to
8	read as follows:
9	"(E) APPLICABLE DOLLAR AMOUNT;
10	COST-OF-LIVING ADJUSTMENT.—
11	"(i) In general.—For purposes
12	of subparagraph (A)(ii), the appli-
13	cable dollar amount shall be the
14	amount determined in accordance
15	with the following table:
	"For taxable years beginning in calendar year: The applicable dollar amount: 2001
16	"(ii) Cost-of-living adjust-
17	MENT.—In the case of a year be-
18	ginning after December 31, 2004,
19	the Secretary shall adjust the
20	\$10,000 amount under clause (i) at
21	the same time and in the same
22	manner as under section 415(d),

1	except that the base period taken
2	into account shall be the calendar
3	quarter beginning July 1, 2003,
4	and any increase under this sub-
5	paragraph which is not a multiple
6	of \$500 shall be rounded to the
7	next lower multiple of \$500.".
8	(3) CONFORMING AMENDMENTS.—
9	(A) Subclause (I) of section
10	401(k)(11)(B)(i) is amended by strik-
11	ing "\$6,000" and inserting "the
12	amount in effect under section
13	408(p)(2)(A)(ii)".
14	(B) Section 401(k)(11) is amended
15	by striking subparagraph (E).
16	(g) ROUNDING RULE RELATING TO DEFINED
17	BENEFIT PLANS AND DEFINED CONTRIBUTION
18	PLANS.—Paragraph (4) of section 415(d) is
19	amended to read as follows:
20	"(4) ROUNDING.—
21	"(A) \$160,000 AMOUNT.—Any in-
22	crease under subparagraph (A) of
23	paragraph (1) which is not a multiple
24	of \$5,000 shall be rounded to the next
25	lowest multiple of \$5,000.

1	"(B) \$40,000 AMOUNT.—Any in-
2	crease under subparagraph (C) of
3	paragraph (1) which is not a multiple
4	of \$1,000 shall be rounded to the next
5	lowest multiple of \$1,000.".
6	(h) EFFECTIVE DATE.—The amendments
7	made by this section shall apply to years be-
8	ginning after December 31, 2000.
9	SEC. 202. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-
10	NERS, AND SOLE PROPRIETORS.
11	(a) AMENDMENT OF INTERNAL REVENUE
12	CODE.—Subparagraph (B) of section 4975(f)(6)
13	(relating to exemptions not to apply to certain
14	transactions) is amended by adding at the end
15	the following new clause:
16	"(iii) LOAN EXCEPTION.—For
17	purposes of subparagraph (A)(i),
18	the term 'owner-employee' shall
19	only include a person described
20	in subclause (II) or (III) of clause
21	(i).".
22	(b) AMENDMENT OF ERISA.—Section
23	408(d)(2) of the Employee Retirement Income
24	Security Act of 1974 (29 U.S.C. 1108(d)(2)) is

1	amended by adding at the end the following
2	new subparagraph:
3	"(C) For purposes of paragraph (1)(A), the
4	term 'owner-employee' shall only include a
5	person described in clause (ii) or (iii) of sub-
6	paragraph (A).".
7	(c) EFFECTIVE DATE.—The amendments
8	made by this section shall apply to years be-
9	ginning after December 31, 2001.
10	SEC. 203. MODIFICATION OF TOP-HEAVY RULES.
11	(a) SIMPLIFICATION OF DEFINITION OF KEY
12	EMPLOYEE.—
13	(1) In GENERAL.—Section 416(i)(1)(A)
14	(defining key employee) is amended—
15	(A) by striking "or any of the 4
16	preceding plan years" in the matter
17	preceding clause (i);
18	(B) by striking clause (i) and in-
19	serting the following:
20	"(i) an officer of the employer
21	having an annual compensation
22	greater than \$150,000,";
23	(C) by striking clause (ii) and re-
24	designating clauses (iii) and (iv) as
25	clauses (ii) and (iii), respectively: and

1	(D) by striking the second sen-
2	tence in the matter following clause
3	(iii), as redesignated by subparagraph
4	(C).
5	(2) Conforming amendment.—Section
6	416(i)(1)(B)(iii) is amended by striking
7	"and subparagraph (A)(ii)".
8	(b) MATCHING CONTRIBUTIONS TAKEN INTO
9	ACCOUNT FOR MINIMUM CONTRIBUTION RE-
10	QUIREMENTS.—Section 416(c)(2)(A) (relating to
11	defined contribution plans) is amended by
12	adding at the end the following: "Employer
13	matching contributions (as defined in section
14	401(m)(4)(A)) shall be taken into account for
15	purposes of this subparagraph.".
16	(c) DISTRIBUTIONS DURING LAST YEAR BE-
17	FORE DETERMINATION DATE TAKEN INTO AC-
18	COUNT.—
19	(1) IN GENERAL.—Paragraph (3) of sec-
20	tion 416(g) is amended to read as follows:
21	"(3) DISTRIBUTIONS DURING LAST YEAR
22	BEFORE DETERMINATION DATE TAKEN INTO
23	ACCOUNT.—
24	"(A) In general.—For purposes of
25	determining—

1	"(i) the present value of the
2	cumulative accrued benefit for
3	any employee, or
4	"(ii) the amount of the ac-
5	count of any employee,
6	such present value or amount shall
7	be increased by the aggregate dis-
8	tributions made with respect to such
9	employee under the plan during the
10	1-year period ending on the deter-
11	mination date. The preceding sen-
12	tence shall also apply to distributions
13	under a terminated plan which if it
14	had not been terminated would have
15	been required to be included in an
16	aggregation group.
17	"(B) 5-YEAR PERIOD IN CASE OF IN-
18	SERVICE DISTRIBUTION.—In the case of
19	any distribution made for a reason
20	other than separation from service,
21	death, or disability, subparagraph (A)
22	shall be applied by substituting '5-
23	year period' for '1-year period'.".

1	(2) BENEFITS NOT TAKEN INTO AC-
2	COUNT.—Subparagraph (E) of section
3	416(g)(4) is amended—
4	(A) by striking "LAST 5 YEARS" in
5	the heading and inserting "LAST YEAR
6	BEFORE DETERMINATION DATE"; and
7	(B) by striking "5-year period"
8	and inserting "1-year period".
9	(d) DEFINITION OF TOP-HEAVY PLANS.—
10	Paragraph (4) of section 416(g) (relating to
11	other special rules for top-heavy plans) is
12	amended by adding at the end the following
13	new subparagraph:
14	"(H) CASH OR DEFERRED ARRANGE-
15	MENTS USING ALTERNATIVE METHODS OF
16	MEETING NONDISCRIMINATION REQUIRE-
17	MENTS.—The term 'top-heavy plan'
18	shall not include a plan which con-
19	sists solely of—
20	"(i) a cash or deferred ar-
21	rangement which meets the re-
22	quirements of section 401(k)(12),
23	and
24	"(ii) matching contributions
25	with respect to which the require-

1	ments of section 401(m)(11) are
2	met.
3	If, but for this subparagraph, a plan
4	would be treated as a top-heavy plan
5	because it is a member of an aggrega-
6	tion group which is a top-heavy
7	group, contributions under the plan
8	may be taken into account in deter-
9	mining whether any other plan in the
10	group meets the requirements of sub-
11	section $(c)(2)$.".
12	(e) FROZEN PLAN EXEMPT FROM MINIMUM
13	BENEFIT REQUIREMENT.—Subparagraph (C) of
14	section 416(c)(1) (relating to defined benefit
15	plans) is amended—
16	(A) by striking "clause (ii)" in
17	clause (i) and inserting "clause (ii) or
18	(iii)"; and
19	(B) by adding at the end the fol-
20	lowing:
21	"(iii) EXCEPTION FOR FROZEN
22	PLAN.—For purposes of deter-
23	mining an employee's years of
24	service with the employer, any
25	service with the employer shall be

disregarded to the extent that
such service occurs during a plan
year when the plan benefits
(within the meaning of section
410(b)) no key employee or former
key employee.".

7 (f) ELIMINATION OF FAMILY ATTRIBUTION.—
8 Section 416(i)(1)(B) (defining 5-percent
9 owner) is amended by adding at the end the
10 following new clause:

"(iv) Family attribution dis-11 REGARDED.—Solely for purposes of 12 applying this paragraph (and not 13 for purposes of any provision of 14 this title which incorporates by 15 reference the definition of a key 16 17 employee or 5-percent owner under this paragraph), section 18 19 318 shall be applied without re-20 gard to subsection (a)(1) thereof 21 in determining whether any person is a 5-percent owner.". 22

23 **(g) EFFECTIVE DATE.—The amendments**24 **made by this section shall apply to years be-**25 **ginning after December 31, 2001.**

- 1 SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-
- 2 COUNT FOR PURPOSES OF DEDUCTION LIM-
- 3 ITS.
- 4 (a) IN GENERAL.—Section 404 (relating to
- 5 deduction for contributions of an employer to
- 6 an employees' trust or annuity plan and com-
- 7 pensation under a deferred payment plan) is
- 8 amended by adding at the end the following
- 9 **new subsection:**
- 10 "(n) ELECTIVE DEFERRALS NOT TAKEN INTO
- 11 ACCOUNT FOR PURPOSES OF DEDUCTION LIM-
- 12 ITS.—Elective deferrals (as defined in section
- 13 402(g)(3)) shall not be subject to any limita-
- 14 tion contained in paragraph (3), (7), or (9) of
- 15 subsection (a), and such elective deferrals
- 16 shall not be taken into account in applying
- 17 any such limitation to any other contribu-
- 18 tions.".
- 19 **(b) EFFECTIVE DATE.—The amendment**
- 20 made by this section shall apply to years be-
- 21 ginning after December 31, 2001.

1	SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR
2	DEFERRED COMPENSATION PLANS OF STATE
3	AND LOCAL GOVERNMENTS AND TAX-EX-
4	EMPT ORGANIZATIONS.
5	(a) In General.—Subsection (c) of section
6	457 (relating to deferred compensation plans
7	of State and local governments and tax-ex-
8	empt organizations), as amended by section
9	201, is amended to read as follows:
10	"(c) LIMITATION.—The maximum amount of
11	the compensation of any one individual which
12	may be deferred under subsection (a) during
13	any taxable year shall not exceed the amount
14	in effect under subsection (b)(2)(A) (as modi-
15	fied by any adjustment provided under sub-
16	section (b)(3)).".
17	(b) EFFECTIVE DATE.—The amendment
18	made by subsection (a) shall apply to years
19	beginning after December 31, 2001.
20	SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO
21	IRS REGARDING PENSION PLANS.
22	(a) Elimination of Certain User Fees.—
23	The Secretary of the Treasury or the Sec-
24	retary's delegate shall not require payment of
25	user fees under the program established

26 under section 10511 of the Revenue Act of

1	1987 for requests to the Internal Revenue
2	Service for determination letters with respect
3	to the qualified status of a pension benefit
4	plan maintained solely by one or more eligible
5	employers or any trust which is part of the
6	plan. The preceding sentence shall not apply
7	to any request—
8	(1) made after the later of—
9	(A) the fifth plan year the pension
10	benefit plan is in existence; or
11	(B) the end of any remedial
12	amendment period with respect to
13	the plan beginning within the first 5
14	plan years; or
15	(2) made by the sponsor of any proto-
16	type or similar plan which the sponsor
17	intends to market to participating em-
18	ployers.
19	(b) Pension Benefit Plan.—For purposes
20	of this section, the term "pension benefit
21	plan" means a pension, profit-sharing, stock
22	bonus, annuity, or employee stock ownership
23	plan.

24 (c) ELIGIBLE EMPLOYER.—For purposes of 25 this section, the term "eligible employer" has

- 1 the same meaning given such term in section
- 2 408(p)(2)(C)(i)(I) of the Internal Revenue Code
- 3 of 1986. The determination of whether an em-
- 4 ployer is an eligible employer under this sec-
- 5 tion shall be made as of the date of the re-
- 6 quest described in subsection (a).
- 7 (d) DETERMINATION OF AVERAGE FEES
- 8 CHARGED.—For purposes of any determina-
- 9 tion of average fees charged, any request to
- 10 which subsection (a) applies shall not be
- 11 taken into account.
- 12 (e) Effective Date.—The provisions of
- 13 this section shall apply with respect to re-
- 14 quests made after December 31, 2001.
- 15 SEC. 207. DEDUCTION LIMITS.
- 16 (a) STOCK BONUS AND PROFIT SHARING
- 17 TRUSTS.—
- 18 (1) IN GENERAL.—Subclause (I) of sec-
- 19 tion 404(a)(3)(A)(i) (relating to stock
- 20 **bonus and profit sharing trusts) is**
- amended by striking "15 percent" and in-
- 22 serting "20 percent".
- 23 (2) CONFORMING AMENDMENT.—Sub-
- paragraph (C) of section 404(h)(1) is
- 25 amended by striking "15 percent" each

1	place it appears and inserting "20 per-
2	cent".
3	(b) COMPENSATION.—
4	(1) In General.—Section 404(a) (relat-
5	ing to general rule) is amended by adding
6	at the end the following:
7	"(12) DEFINITION OF COMPENSATION.—
8	For purposes of paragraphs (3), (7), (8),
9	and (9), the term 'compensation other-
10	wise paid or accrued during the taxable
11	year' shall include amounts treated as
12	'participant's compensation' under sub-
13	paragraph (C) or (D) of section 415(c)(3).".
14	(2) CONFORMING AMENDMENTS.—
15	(A) Subparagraph (B) of section
16	404(a)(3) is amended by striking the
17	last sentence thereof.
18	(B) Clause (i) of section
19	4972(c)(6)(B) is amended by striking
20	"(within the meaning of section
21	404(a))" and inserting "(within the
22	meaning of section 404(a) and as ad-
23	justed under section 404(a)(12))".

1	(c) EFFECTIVE DATE.—The amendments
2	made by this section shall apply to years be-
3	ginning after December 31, 2001.
4	SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS
5	AFTER-TAX CONTRIBUTIONS.
6	(a) In General.—Subpart A of part I of
7	subchapter D of chapter 1 (relating to de-
8	ferred compensation, etc.) is amended by in-
9	serting after section 402 the following new
10	section:
11	"SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-
12	RALS AS PLUS CONTRIBUTIONS.
13	"(a) GENERAL RULE.—If an applicable re-
14	tirement plan includes a qualified plus con-
15	tribution program—
16	"(1) any designated plus contribution
17	made by an employee pursuant to the
18	program shall be treated as an elective
19	deferral for purposes of this chapter, ex-
20	cept that such contribution shall not be
21	excludable from gross income, and
22	"(2) such plan (and any arrangement
23	which is part of such plan) shall not be
24	treated as failing to meet any require-

1	ment of this chapter solely by reason of
2	including such program.
3	"(b) QUALIFIED PLUS CONTRIBUTION PRO-
4	GRAM.—For purposes of this section—
5	"(1) In GENERAL.—The term 'qualified
6	plus contribution program' means a pro-
7	gram under which an employee may elect
8	to make designated plus contributions in
9	lieu of all or a portion of elective defer-
10	rals the employee is otherwise eligible to
11	make under the applicable retirement
12	plan.
13	"(2) SEPARATE ACCOUNTING RE-
14	QUIRED.—A program shall not be treated
15	as a qualified plus contribution program
16	unless the applicable retirement plan—
17	"(A) establishes separate accounts
18	('designated plus accounts') for the
19	designated plus contributions of each
20	employee and any earnings properly
21	allocable to the contributions, and
22	"(B) maintains separate record-
23	keeping with respect to each account.

1	"(c) DEFINITIONS AND RULES RELATING TO
2	DESIGNATED PLUS CONTRIBUTIONS.—For pur-
3	poses of this section—
4	"(1) DESIGNATED PLUS CONTRIBUTION.—
5	The term 'designated plus contribution'
6	means any elective deferral which—
7	"(A) is excludable from gross in-
8	come of an employee without regard
9	to this section, and
10	"(B) the employee designates (at
11	such time and in such manner as the
12	Secretary may prescribe) as not being
13	so excludable.
14	"(2) DESIGNATION LIMITS.—The amount
15	of elective deferrals which an employee
16	may designate under paragraph (1) shall
17	not exceed the excess (if any) of—
18	"(A) the maximum amount of elec-
19	tive deferrals excludable from gross
20	income of the employee for the tax-
21	able year (without regard to this sec-
22	tion), over
23	"(B) the aggregate amount of elec-
24	tive deferrals of the employee for the

1	taxable year which the employee does
2	not designate under paragraph (1).
3	"(3) ROLLOVER CONTRIBUTIONS.—
4	"(A) IN GENERAL.—A rollover con-
5	tribution of any payment or distribu-
6	tion from a designated plus account
7	which is otherwise allowable under
8	this chapter may be made only if the
9	contribution is to—
10	"(i) another designated plus
11	account of the individual from
12	whose account the payment or
13	distribution was made, or
14	"(ii) a Roth IRA of such indi-
15	vidual.
16	"(B) COORDINATION WITH LIMIT.—
17	Any rollover contribution to a des-
18	ignated plus account under subpara-
19	graph (A) shall not be taken into ac-
20	count for purposes of paragraph (1).
21	"(d) DISTRIBUTION RULES.—For purposes of
22	this title—
23	"(1) Exclusion.—Any qualified dis-
24	tribution from a designated plus account
25	shall not be includible in gross income.

1	"(2) QUALIFIED DISTRIBUTION.—For
2	purposes of this subsection—
3	"(A) In General.—The term 'quali-
4	fied distribution' has the meaning
5	given such term by section
6	408A(d)(2)(A) (without regard to
7	clause (iv) thereof).
8	"(B) DISTRIBUTIONS WITHIN NON-
9	EXCLUSION PERIOD.—A payment or dis-
10	tribution from a designated plus ac-
11	count shall not be treated as a quali-
12	fied distribution if such payment or
13	distribution is made within the 5-tax-
14	able-year period beginning with the
15	earlier of—
16	"(i) the first taxable year for
17	which the individual made a des-
18	ignated plus contribution to any
19	designated plus account estab-
20	lished for such individual under
21	the same applicable retirement
22	plan, or
23	"(ii) if a rollover contribution
24	was made to such designated plus
25	account from a designated plus

1	account previously established
2	for such individual under another
3	applicable retirement plan, the
4	first taxable year for which the
5	individual made a designated
6	plus contribution to such pre-
7	viously established account.
8	"(C) DISTRIBUTIONS OF EXCESS DE-
9	FERRALS AND EARNINGS.—The term
10	'qualified distribution' shall not in-
11	clude any distribution of any excess
12	deferral under section 402(g)(2) and
13	any income on the excess deferral.
14	"(3) AGGREGATION RULES.—Section 72
15	shall be applied separately with respect
16	to distributions and payments from a des-
17	ignated plus account and other distribu-
18	tions and payments from the plan.
19	"(e) Other Definitions.—For purposes of
20	this section—
21	"(1) APPLICABLE RETIREMENT PLAN.—
22	The term 'applicable retirement plan'
23	means—

1	"(A) an employees' trust described
2	in section 401(a) which is exempt
3	from tax under section 501(a), and
4	"(B) a plan under which amounts
5	are contributed by an individual's
6	employer for an annuity contract de-
7	scribed in section 403(b).
8	"(2) ELECTIVE DEFERRAL.—The term
9	'elective deferral' means any elective de-
10	ferral described in subparagraph (A) or
11	(C) of section $402(g)(3)$.".
12	(b) Excess Deferrals.—Section 402(g) (re-
13	lating to limitation on exclusion for elective
14	deferrals) is amended—
15	(1) by adding at the end of paragraph
16	(1) the following new sentence: "The pre-
17	ceding sentence shall not apply to so
18	much of such excess as does not exceed
19	the designated plus contributions of the
20	individual for the taxable year."; and
21	(2) by inserting "(or would be in-
22	cluded but for the last sentence thereof)"
23	after "paragraph (1)" in paragraph (2)(A).

- 1 (c) ROLLOVERS.—Subparagraph (B) of sec-2 tion 402(c)(8) is amended by adding at the end 3 the following:
- 4 "If any portion of an eligible rollover 5 distribution is attributable to payments or distributions from a des-6 7 ignated plus account (as defined in section 402A), an eligible retirement 8 plan with respect to such portion 9 shall include only another designated 10 11 plus account and a Roth IRA.".

(d) REPORTING REQUIREMENTS.—

- 13 (1) W-2 INFORMATION.—Section
 14 6051(a)(8) is amended by inserting ", in15 cluding the amount of designated plus
 16 contributions (as defined in section
 17 402A)" before the comma at the end.
- 18 (2) Information.—Section 6047 is 19 amended by redesignating subsection (f) 20 as subsection (g) and by inserting after 21 subsection (e) the following new sub-22 section:
- 23 "(f) DESIGNATED PLUS CONTRIBUTIONS.— 24 The Secretary shall require the plan adminis-25 trator of each applicable retirement plan (as

- 1 defined in section 402A) to make such returns
- 2 and reports regarding designated plus con-
- 3 tributions (as so defined) to the Secretary,
- 4 participants and beneficiaries of the plan, and
- 5 such other persons as the Secretary may pre-
- 6 scribe.".

7 (e) CONFORMING AMENDMENTS.—

- 8 (1) Section 408A(e) is amended by
- 9 adding after the first sentence the fol-
- lowing new sentence: "Such term in-
- 11 cludes a rollover contribution described
- 12 in section 402A(c)(3)(A).".
- 13 **(2) The table of sections for subpart A**
- of part I of subchapter D of chapter 1 is
- amended by inserting after the item re-
- lating to section 402 the following new
- 17 **item:**

"Sec. 402A. Optional treatment of elective deferrals as plus contributions.".

- 18 **(f) EFFECTIVE DATE.—The amendments**
- 19 made by this section shall apply to taxable
- 20 years beginning after December 31, 2001.

1	TITLE III—ENHANCING
2	FAIRNESS FOR WOMEN
3	SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS
4	AGE 50 OR OVER.
5	(a) In General.—Section 414 (relating to
6	definitions and special rules) is amended by
7	adding at the end the following new sub-
8	section:
9	"(v) CATCH-UP CONTRIBUTIONS FOR INDIVID-
10	UALS AGE 50 OR OVER.—
11	"(1) In GENERAL.—An applicable em-
12	ployer plan shall not be treated as failing
13	to meet any requirement of this title sole-
14	ly because the plan permits an eligible
15	participant to make additional elective
16	deferrals in any plan year.
17	"(2) LIMITATION ON AMOUNT OF ADDI-
18	TIONAL DEFERRALS.—A plan shall not per-
19	mit additional elective deferrals under
20	paragraph (1) for any year in an amount
21	greater than the lesser of—
22	"(A) \$5,000, or
23	"(B) the excess (if any) of—
24	"(i) the participant's com-
25	pensation for the year, over

1	"(ii) any other elective defer-
2	rals of the participant for such
3	year which are made without re-
4	gard to this subsection.
5	"(3) TREATMENT OF CONTRIBUTIONS.—In
6	the case of any contribution to a plan
7	under paragraph (1), such contribution
8	shall not, with respect to the year in
9	which the contribution is made—
10	"(A) be subject to any otherwise
11	applicable limitation contained in
12	section $402(g)$, $402(h)(2)$, $404(a)$,
13	404(h), 408(p)(2)(A)(ii), 415, or 457, or
14	"(B) be taken into account in ap-
15	plying such limitations to other con-
16	tributions or benefits under such
17	plan or any other such plan.
18	"(4) APPLICATION OF NONDISCRIMINA-
19	TION RULES.—
20	"(A) IN GENERAL.—An applicable
21	employer plan shall not be treated as
22	failing to meet the nondiscrimination
23	requirements under section 401(a)(4)
24	with respect to benefits, rights, and
25	features if the plan allows all eligible

1	participants to make the same elec-
2	tion with respect to the additional
3	elective deferrals under this sub-
4	section.
5	"(B) AGGREGATION.—For purposes
6	of subparagraph (A), all plans main-
7	tained by employers who are treated
8	as a single employer under sub-
9	section (b), (c), (m), or (o) of section
10	414 shall be treated as 1 plan.
11	"(5) ELIGIBLE PARTICIPANT.—For pur-
12	poses of this subsection, the term 'eligible
13	participant' means, with respect to any
14	plan year, a participant in a plan—
15	"(A) who has attained the age of
16	50 before the close of the plan year,
17	and
18	"(B) with respect to whom no
19	other elective deferrals may (without
20	regard to this subsection) be made to
21	the plan for the plan year by reason
22	of the application of any limitation or
23	other restriction described in para-
24	graph (3) or comparable limitation

contained in the terms of the plan.

1	"(6) OTHER DEFINITIONS AND RULES.—
2	For purposes of this subsection—
3	"(A) APPLICABLE EMPLOYER PLAN.—
4	The term 'applicable employer plan'
5	means—
6	"(i) an employees' trust de-
7	scribed in section 401(a) which is
8	exempt from tax under section
9	501(a),
10	"(ii) a plan under which
11	amounts are contributed by an in-
12	dividual's employer for an annu-
13	ity contract described in section
14	403(b),
15	"(iii) an eligible deferred com-
16	pensation plan under section 457
17	of an eligible employer as defined
18	in section $457(e)(1)(A)$, and
19	"(iv) an arrangement meeting
20	the requirements of section 408
21	(k) or (p).
22	"(B) ELECTIVE DEFERRAL.—The
23	term 'elective deferral' has the mean-
24	ing given such term by subsection
25	(u)(2)(C).

"(C) EXCEPTION FOR SECTION 457

PLANS.—This subsection shall not

apply to an applicable employer plan

described in subparagraph (A)(iii) for

any year to which section 457(b)(3)

applies.

"(D) Cost-of-living adjustment.— In the case of a year beginning after December 31, 2005, the Secretary annually the shall adiust \$5,000 amount in paragraph (2)(A) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period taken into account shall be the calendar quarter beginning July 1, 2004, and any increase under this subparagraph which is not a multiple of \$500 shall be rounded to the next lower multiple of \$500.".

22 **(b)** EFFECTIVE DATE.—The amendment 23 made by this section shall apply to contribu-24 tions in taxable years beginning after Decem-25 ber 31, 2000.

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1	SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF
2	EMPLOYEES TO DEFINED CONTRIBUTION
3	PLANS.
4	(a) EQUITABLE TREATMENT.—
5	(1) IN GENERAL.—Subparagraph (B) of
6	section $415(c)(1)$ (relating to limitation
7	for defined contribution plans) is amend-
8	ed by striking "25 percent" and inserting
9	"100 percent".
10	(2) APPLICATION TO SECTION 403(b).—
11	Section 403(b) is amended—
12	(A) by striking "the exclusion al-
13	lowance for such taxable year" in
14	paragraph (1) and inserting "the ap-
15	plicable limit under section 415";
16	(B) by striking paragraph (2); and
17	(C) by inserting "or any amount
18	received by a former employee after
19	the fifth taxable year following the
20	taxable year in which such employee
21	was terminated" before the period at
22	the end of the second sentence of
23	paragraph (3).
24	(3) Conforming amendments.—
25	(A) Subsection (f) of section 72 is
26	amended by striking "section

1	403(b)(2)(D)(iii))" and inserting "sec-
2	tion 403(b)(2)(D)(iii), as in effect be-
3	fore the enactment of the Comprehen-
4	sive Retirement Security and Pension
5	Reform Act of 2001)".
6	(B) Section $404(a)(10)(B)$ is
7	amended by striking ", the exclusion
8	allowance under section 403(b)(2),".
9	(C) Section 415(a)(2) is amended
10	by striking ", and the amount of the
11	contribution for such portion shall re-
12	duce the exclusion allowance as pro-
13	vided in section 403(b)(2)".
14	(D) Section $415(c)(3)$ is amended
15	by adding at the end the following
16	new subparagraph:
17	"(E) ANNUITY CONTRACTS.—In the
18	case of an annuity contract described
19	in section 403(b), the term 'partici-
20	pant's compensation' means the par-
21	ticipant's includible compensation de-
22	termined under section 403(b)(3).".
23	(E) Section 415(c) is amended by
24	striking paragraph (4).

1	(F) Section $415(c)(7)$ is amended
2	to read as follows:
3	"(7) CERTAIN CONTRIBUTIONS BY
4	CHURCH PLANS NOT TREATED AS EXCEEDING
5	LIMIT.—
6	"(A) IN GENERAL.—Notwith-
7	standing any other provision of this
8	subsection, at the election of a partic-
9	ipant who is an employee of a church
10	or a convention or association of
11	churches, including an organization
12	described in section 414(e)(3)(B)(ii),
13	contributions and other additions for
14	an annuity contract or retirement in-
15	come account described in section
16	403(b) with respect to such partici-
17	pant, when expressed as an annual
18	addition to such participant's ac-
19	count, shall be treated as not exceed-
20	ing the limitation of paragraph (1) if
21	such annual addition is not in excess
22	of \$10,000.
23	"(B) \$40,000 AGGREGATE LIMITA-
24	TION.—The total amount of additions
25	with respect to any participant which

1	may be taken into account for pur-
2	poses of this subparagraph for all
3	years may not exceed \$40,000.
4	"(C) ANNUAL ADDITION.—For pur-
5	poses of this paragraph, the term 'an-
6	nual addition' has the meaning given
7	such term by paragraph (2).".
8	(G) Subparagraph (B) of section
9	402(g)(7) (as redesignated by section
10	201) is amended by inserting before
11	the period at the end the following:
12	"(as in effect before the enactment of
13	the Comprehensive Retirement Secu-
14	rity and Pension Reform Act of
15	2001)".
16	(H) Section 664(g) is amended—
17	(i) in paragraph (3)(E) by
18	striking "limitations under sec-
19	tion 415(c)" and inserting "appli-
20	cable limitation under paragraph
21	(7)", and
22	(ii) by adding at the end the
23	following new paragraph:
24	"(7) APPLICABLE LIMITATION.—

1	"(A) IN GENERAL.—For purposes of
2	paragraph (3)(E), the applicable limi-
3	tation under this paragraph with re-
4	spect to a participant is an amount
5	equal to the lesser of—
6	"(i) \$30,000, or
7	"(ii) 25 percent of the partici-
8	pant's compensation (as defined
9	in section $415(c)(3)$).
10	"(B) Cost-of-living adjustment.—
11	The Secretary shall adjust annually
12	the \$30,000 amount under subpara-
13	graph (A)(i) at the same time and in
14	the same manner as under section
15	415(d), except that the base period
16	shall be the calendar quarter begin-
17	ning October 1, 1993, and any in-
18	crease under this subparagraph
19	which is not a multiple of \$5,000 shall
20	be rounded to the next lowest mul-
21	tiple of \$5,000.".
22	(3) Effective date.—The amendments
23	made by this subsection shall apply to
24	years beginning after December 31, 2000.

1	(b) SPECIAL RULES FOR SECTIONS 403(b) AND
2	408.—
3	(1) In general.—Subsection (k) of sec-
4	tion 415 is amended by adding at the end
5	the following new paragraph:
6	"(4) SPECIAL RULES FOR SECTIONS
7	403(b) AND 408.—For purposes of this sec-
8	tion, any annuity contract described in
9	section 403(b) for the benefit of a partici-
10	pant shall be treated as a defined con-
11	tribution plan maintained by each em-
12	ployer with respect to which the partici-
13	pant has the control required under sub-
14	section (b) or (c) of section 414 (as modi-
15	fied by subsection (h)). For purposes of
16	this section, any contribution by an em-
17	ployer to a simplified employee pension
18	plan for an individual for a taxable year
19	shall be treated as an employer contribu-
20	tion to a defined contribution plan for
21	such individual for such year.".
22	(2) Effective date.—
23	(A) In GENERAL.—The amendment
24	made by paragraph (1) shall apply to

- limitation years beginning after December 31, 1999.
- (B) EXCLUSION ALLOWANCE.—Effec-3 tive for limitation years beginning in 2000, in the case of any annuity contract described in section 403(b) of 6 the Internal Revenue Code of 1986, 7 the amount of the contribution dis-8 qualified by reason of section 415(g) 9 of such Code shall reduce the exclu-10 sion allowance as provided in section 11 403(b)(2) of such Code. 12
 - (3) Modification of 403(b) exclusion Allowance to conform to 415 modification.—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to render void the requirement that contributions to a defined benefit pension plan be treated as previously excluded amounts for purposes of the exclusion allowance. For taxable years beginning after December 31, 1999, such regu-

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1	lations shall be applied as if such re-
2	quirement were void.
3	(c) DEFERRED COMPENSATION PLANS OF
4	STATE AND LOCAL GOVERNMENTS AND TAX-EX-
5	EMPT ORGANIZATIONS.—
6	(1) IN GENERAL.—Subparagraph (B) of
7	section 457(b)(2) (relating to salary limi-
8	tation on eligible deferred compensation
9	plans) is amended by striking "331/3 per-
10	cent" and inserting "100 percent".
11	(2) EFFECTIVE DATE.—The amendment
12	made by this subsection shall apply to
13	years beginning after December 31, 2000.
14	SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER
15	MATCHING CONTRIBUTIONS.
16	(a) AMENDMENT OF INTERNAL REVENUE
17	CODE.—Section 411(a) (relating to minimum
18	vesting standards) is amended—
19	(1) in paragraph (2), by striking "A
20	plan" and inserting "Except as provided
21	in paragraph (12), a plan"; and
22	(2) by adding at the end the fol-
23	lowing:
24	"(12) FASTER VESTING FOR MATCHING
25	CONTRIBUTIONS.—In the case of matching

1	contributions (as defined in section	
2	401(m)(4)(A)), paragraph (2) shall be	
3	applied—	
4	"(A) by substituting '3 years' for '5	
5	years' in subparagraph (A), and	
6	"(B) by substituting the following	
7	table for the table contained in sub-	
8	paragraph (B):	
	The nonforfeitable "Years of service: percentage is: 2	
9	(b) AMENDMENT OF ERISA.—Section 203(a)	
10	of the Employee Retirement Income Security	
11	Act of 1974 (29 U.S.C. 1053(a)) is amended—	
12	(1) in paragraph (2), in the matter	
13	preceding subparagraph (A), by striking	
14	"A plan" and inserting "Except as pro-	
15	vided in paragraph (4), a plan", and	
16	(2) by adding at the end the fol-	
17	lowing:	
18	"(4) In the case of matching contribu-	
19	tions (as defined in section $401(m)(4)(A)$	
20	of the Internal Revenue Code of 1986),	
21	paragraph (2) shall be applied—	

1	"(A) by substituting '3 years' for '5
2	years' in subparagraph (A), and
3	"(B) by substituting the following
4	table for the table contained in sub-
5	paragraph (B):

	ine noniorieitable
"Years of service:	percentage is:
2	20
3	40
4	60
5	80
6	100.".

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(c) Effective Dates.—

- (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2001.
- (2) Collective Bargaining agreements.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

1	(A) the later of—
2	(i) the date on which the last
3	of such collective bargaining
4	agreements terminates (deter-
5	mined without regard to any ex-
6	tension thereof on or after such
7	date of the enactment); or
8	(ii) January 1, 2002; or
9	(B) January 1, 2006.
10	(3) SERVICE REQUIRED.—With respect
11	to any plan, the amendments made by
12	this section shall not apply to any em-
13	ployee before the date that such em-
14	ployee has 1 hour of service under such
15	plan in any plan year to which the
16	amendments made by this section apply.
17	SEC. 304. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBU-
18	TION RULES.
19	(a) SIMPLIFICATION AND FINALIZATION OF
20	MINIMUM DISTRIBUTION REQUIREMENTS.—
21	(1) IN GENERAL.—The Secretary of the
22	Treasury shall—
23	(A) simplify and finalize the regu-
24	lations relating to minimum distribu-
25	tion requirements under sections

1	401(a)(9), $408(a)(6)$ and $(b)(3)$,
2	403(b)(10), and 457(d)(2) of the Inter-
3	nal Revenue Code of 1986; and
4	(B) modify such regulations to—
5	(i) reflect current life expect-
6	ancy; and
7	(ii) revise the required dis-
8	tribution methods so that, under
9	reasonable assumptions, the
10	amount of the required minimum
11	distribution does not decrease
12	over a participant's life expect-
13	ancy.
14	(2) FRESH START.—Notwithstanding
15	subparagraph (D) of section 401(a)(9) of
16	such Code, during the first year that reg-
17	ulations are in effect under this sub-
18	section, required distributions for future
19	years may be redetermined to reflect
20	changes under such regulations. Such re-
21	determination shall include the oppor-
22	tunity to choose a new designated bene-
23	ficiary and to elect a new method of cal-
24	culating life expectancy.

1	(3) DATE FOR REGULATIONS.—Not later
2	than December 31, 2002, the Secretary
3	shall issue final regulations described in
4	paragraph (1) and such regulations shall
5	apply without regard to whether an indi-
6	vidual had previously begun receiving
7	minimum distributions.
8	(b) Repeal of Rule Where Distributions
9	HAD BEGUN BEFORE DEATH OCCURS.—
10	(1) IN GENERAL.—Subparagraph (B) of
11	section 401(a)(9) is amended by striking
12	clause (i) and redesignating clauses (ii),
13	(iii), and (iv) as clauses (i), (ii), and (iii),
14	respectively.
15	(2) Conforming Changes.—
16	(A) Clause (i) of section
17	401(a)(9)(B) (as so redesignated) is
18	amended—
19	(i) by striking "FOR OTHER
20	CASES" in the heading; and
21	(ii) by striking "the distribu-
22	tion of the employee's interest has
23	begun in accordance with sub-
24	paragraph (A)(ii)" and inserting

1	"his entire interest has been dis-
2	tributed to him".
3	(B) Clause (ii) of section
4	401(a)(9)(B) (as so redesignated) is
5	amended by striking "clause (ii)" and
6	inserting "clause (i)".
7	(C) Clause (iii) of section
8	401(a)(9)(B) (as so redesignated) is
9	amended—
10	(i) by striking "clause (iii)(I)"
11	and inserting "clause (ii)(I)";
12	(ii) by striking "clause
13	(iii)(III)" in subclause (I) and in-
14	serting "clause (ii)(III)";
15	(iii) by striking "the date on
16	which the employee would have
17	attained age 70½," in subclause
18	(I) and inserting "April 1 of the
19	calendar year following the cal-
20	endar year in which the spouse
21	attains 70½,"; and
22	(iv) by striking "the distribu-
23	tions to such spouse begin," in
24	subclause (II) and inserting "his

1	entire interest has been distrib-
2	uted to him,".
3	(3) Effective date.—
4	(A) In GENERAL.—Except as pro-
5	vided in subparagraph (B), the
6	amendments made by this subsection
7	shall apply to years beginning after
8	December 31, 2001.
9	(B) DISTRIBUTIONS TO SURVIVING
10	SPOUSE.—
11	(i) In general.—In the case of
12	an employee described in clause
13	(ii), distributions to the surviving
14	spouse of the employee shall not
15	be required to commence prior to
16	the date on which such distribu-
17	tions would have been required to
18	begin under section 401(a)(9)(B)
19	of the Internal Revenue Code of
20	1986 (as in effect on the day be-
21	fore the date of the enactment of
22	this Act).
23	(ii) CERTAIN EMPLOYEES.—An
24	employee is described in this

1	clause if such employee dies
2	before—
3	(I) the date of the enact-
4	ment of this Act, and
5	(II) the required begin-
6	ning date (within the meaning
7	of section 401(a)(9)(C) of the
8	Internal Revenue Code of
9	1986) of the employee.
10	(c) REDUCTION IN EXCISE TAX.—
11	(1) In general.—Subsection (a) of sec-
12	tion 4974 is amended by striking "50 per-
13	cent" and inserting "10 percent".
14	(2) EFFECTIVE DATE.—The amendment
15	made by this subsection shall apply to
16	years beginning after December 31, 2001.
17	SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION
18	OF SECTION 457 PLAN BENEFITS UPON DI-
19	VORCE.
20	(a) In General.—Section 414(p)(11) (relat-
21	ing to application of rules to governmental
22	and church plans) is amended—
23	(1) by inserting "or an eligible de-
24	ferred compensation plan (within the

- 1 meaning of section 457(b))" after "sub-
- 2 **section (e))"; and**
- 3 (2) in the heading, by striking "GOV-
- 4 ERNMENTAL AND CHURCH PLANS" and in-
- 5 serting "CERTAIN OTHER PLANS".
- 6 (b) WAIVER OF CERTAIN DISTRIBUTION RE-
- 7 QUIREMENTS.—Paragraph (10) of section 414(p)
- 8 is amended by striking "and section 409(d)"
- 9 and inserting "section 409(d), and section
- 10 **457(d)".**
- 11 (c) TAX TREATMENT OF PAYMENTS FROM A
- 12 SECTION 457 PLAN.—Subsection (p) of section
- 13 414 is amended by redesignating paragraph
- 14 (12) as paragraph (13) and inserting after
- 15 paragraph (11) the following new paragraph:
- 16 "(12) TAX TREATMENT OF PAYMENTS
- 17 FROM A SECTION 457 PLAN.—If a distribu-
- tion or payment from an eligible deferred
- 19 compensation plan described in section
- 20 457(b) is made pursuant to a qualified do-
- 21 mestic relations order, rules similar to
- 22 the rules of section 402(e)(1)(A) shall
- 23 apply to such distribution or payment.".
- 24 (d) Effective Date.—The amendments
- 25 made by this section shall apply to transfers,

1	distributions, and payments made after De-
2	cember 31, 2001.
3	SEC. 306. MODIFICATION OF SAFE HARBOR RELIEF FOR
4	HARDSHIP WITHDRAWALS FROM CASH OR
5	DEFERRED ARRANGEMENTS.
6	(a) In General.—The Secretary of the
7	Treasury shall revise the regulations relating
8	to hardship distributions under section
9	401(k)(2)(B)(i)(IV) of the Internal Revenue
10	Code of 1986 to provide that the period an em-
11	ployee is prohibited from making elective and
12	employee contributions in order for a dis-
13	tribution to be deemed necessary to satisfy fi-
14	nancial need shall be equal to 6 months.
15	(b) EFFECTIVE DATE.—The revised regula-
16	tions under subsection (a) shall apply to years
17	beginning after December 31, 2001.
18	TITLE IV—INCREASING PORT-
19	ABILITY FOR PARTICIPANTS
20	SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES
21	OF PLANS.
22	(a) ROLLOVERS FROM AND TO SECTION 457
23	PLANS.—
24	(1) ROLLOVERS FROM SECTION 457
25	PLANS.—

1	(A) In GENERAL.—Section 457(e)
2	(relating to other definitions and spe-
3	cial rules) is amended by adding at
4	the end the following:
5	"(16) ROLLOVER AMOUNTS.—
6	"(A) GENERAL RULE.—In the case
7	of an eligible deferred compensation
8	plan established and maintained by
9	an employer described in subsection
10	(e)(1)(A), if—
11	"(i) any portion of the balance
12	to the credit of an employee in
13	such plan is paid to such em-
14	ployee in an eligible rollover dis-
15	tribution (within the meaning of
16	section 402(c)(4) without regard
17	to subparagraph (C) thereof),
18	"(ii) the employee transfers
19	any portion of the property such
20	employee receives in such dis-
21	tribution to an eligible retirement
22	plan described in section
23	402(c)(8)(B), and
24	"(iii) in the case of a distribu-
25	tion of property other than

1	money, the amount so transferred
2	consists of the property distrib-
3	uted,
4	then such distribution (to the extent
5	so transferred) shall not be includible
6	in gross income for the taxable year
7	in which paid.
8	"(B) CERTAIN RULES MADE APPLICA-
9	BLE.—The rules of paragraphs (2)
10	through (7) (other than paragraph
11	(4)(C)) and (9) of section $402(c)$ and
12	section 402(f) shall apply for purposes
13	of subparagraph (A).
14	"(C) REPORTING.—Rollovers under
15	this paragraph shall be reported to
16	the Secretary in the same manner as
17	rollovers from qualified retirement
18	plans (as defined in section 4974(c)).".
	_
19	(B) DEFERRAL LIMIT DETERMINED
20	WITHOUT REGARD TO ROLLOVER
21	AMOUNTS.—Section 457(b)(2) (defining
22	eligible deferred compensation plan)
23	is amended by inserting "(other than
24	rollover amounts)" after "taxable

year".

1	(C) DIRECT ROLLOVER.—Paragraph
2	(1) of section 457(d) is amended by
3	striking "and" at the end of subpara-
4	graph (A), by striking the period at
5	the end of subparagraph (B) and in-
6	serting ", and", and by inserting after
7	subparagraph (B) the following:
8	"(C) in the case of a plan main-
9	tained by an employer described in
10	subsection (e)(1)(A), the plan meets
11	requirements similar to the require-
12	ments of section 401(a)(31).
13	Any amount transferred in a direct trust-
14	ee-to-trustee transfer in accordance with
15	section 401(a)(31) shall not be includible
16	in gross income for the taxable year of
17	transfer.".
18	(D) WITHHOLDING.—
19	(i) Paragraph (12) of section
20	3401(a) is amended by adding at
21	the end the following:
22	"(E) under or to an eligible de-
23	ferred compensation plan which, at
24	the time of such payment, is a plan
25	described in section 457(b) main-

1	tained by an employer described in
2	section $457(e)(1)(A)$; or".
3	(ii) Paragraph (3) of section
4	3405(c) is amended to read as fol-
5	lows:
6	"(3) ELIGIBLE ROLLOVER DISTRIBU-
7	TION.—For purposes of this subsection,
8	the term 'eligible rollover distribution'
9	has the meaning given such term by sec-
10	tion 402(f)(2)(A).".
11	(iii) LIABILITY FOR WITH-
12	HOLDING.—Subparagraph (B) of
13	section 3405(d)(2) is amended by
14	striking "or" at the end of clause
15	(ii), by striking the period at the
16	end of clause (iii) and inserting ",
17	or", and by adding at the end the
18	following:
19	"(iv) section 457(b) and which
20	is maintained by an eligible em-
21	ployer described in section
22	457(e)(1)(A).".
23	(2) ROLLOVERS TO SECTION 457 PLANS.—
24	(A) IN GENERAL.—Section
25	402(c)(8)(R) (defining eligible retire-

1	ment plan) is amended by striking
2	"and" at the end of clause (iii), by
3	striking the period at the end of
4	clause (iv) and inserting ", and", and
5	by inserting after clause (iv) the fol-
6	lowing new clause:
7	"(v) an eligible deferred com-
8	pensation plan described in sec-
9	tion 457(b) which is maintained
10	by an eligible employer described
11	in section 457(e)(1)(A).".
12	(B) SEPARATE ACCOUNTING.—Sec-
13	tion 402(c) is amended by adding at
14	the end the following new paragraph:
15	"(11) SEPARATE ACCOUNTING.—Unless a
16	plan described in clause (v) of paragraph
17	(8)(B) agrees to separately account for
18	amounts rolled into such plan from eligi-
19	ble retirement plans not described in
20	such clause, the plan described in such
21	clause may not accept transfers or roll-
22	overs from such retirement plans.".
23	(C) 10 PERCENT ADDITIONAL TAX.—
24	Subsection (t) of section 72 (relating
25	to 10-novement additional tax on carly

1	distributions from qualified re	tire-
2	ment plans) is amended by addin	g at
3	the end the following new paragr	aph:

- 4 "(9) SPECIAL RULE FOR ROLLOVERS TO SECTION 457 PLANS.—For purposes of this 5 subsection, a distribution from an eligible 6 deferred compensation plan (as defined 7 in section 457(b)) of an eligible employer 8 described in section 457(e)(1)(A) shall be 9 treated as a distribution from a qualified 10 retirement plan described in 4974(c)(1) to the extent that such distribution is at-12 tributable to an amount transferred to an 13 14 eligible deferred compensation plan from a qualified retirement plan (as defined in 15 section 4974(c)).". 16
- 17 (b) ALLOWANCE OF ROLLOVERS FROM AND TO 18 403(b) PLANS.—
- 19 (1) ROLLOVERS FROM SECTION 403(b) 20 PLANS.—Section 403(b)(8)(A)(ii) (relating 21 to rollover amounts) is amended by strik-22 ing "such distribution" and all that follows and inserting "such distribution to 23 an eligible retirement plan described in 24 section 402(c)(8)(B), and". 25

1	(2) ROLLOVERS TO SECTION 403(b)
2	PLANS.—Section 402(c)(8)(B) (defining eli-
3	gible retirement plan), as amended by
4	subsection (a), is amended by striking
5	"and" at the end of clause (iv), by striking
6	the period at the end of clause (v) and in-
7	serting ", and", and by inserting after
8	clause (v) the following new clause:
9	"(vi) an annuity contract de-
10	scribed in section 403(b).".
11	(c) Expanded Explanation to Recipients
12	OF ROLLOVER DISTRIBUTIONS.—Paragraph (1)
13	of section 402(f) (relating to written expla-
14	nation to recipients of distributions eligible
15	for rollover treatment) is amended by striking
16	"and" at the end of subparagraph (C), by
17	striking the period at the end of subpara-
18	graph (D) and inserting ", and", and by adding
19	at the end the following new subparagraph:
20	"(E) of the provisions under
21	which distributions from the eligible
22	retirement plan receiving the dis-
23	tribution may be subject to restric-
24	tions and tax consequences which are
25	different from those applicable to dis-

1	tributions from the plan making such
2	distribution.".
3	(d) SPOUSAL ROLLOVERS.—Section 402(c)(9)
4	(relating to rollover where spouse receives
5	distribution after death of employee) is
6	amended by striking "; except that" and all
7	that follows up to the end period.
8	(e) CONFORMING AMENDMENTS.—
9	(1) Section $72(0)(4)$ is amended by
10	striking "and 408(d)(3)" and inserting
11	"403(b)(8), 408(d)(3), and 457(e)(16)".
12	(2) Section 219(d)(2) is amended by
13	striking "or 408(d)(3)" and inserting
14	"408(d)(3), or 457(e)(16)".
15	(3) Section 401(a)(31)(B) is amended
16	by striking "and 403(a)(4)" and inserting
17	", 403(a)(4), 403(b)(8), and 457(e)(16)".
18	(4) Subparagraph (A) of section
19	402(f)(2) is amended by striking "or para-
20	graph (4) of section 403(a)" and inserting
21	", paragraph (4) of section 403(a), sub-
22	paragraph (A) of section 403(b)(8), or sub-
23	paragraph (A) of section 457(e)(16)".

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1	(5) Paragraph (1) of section 402(f) is
2	amended by striking "from an eligible re-
3	tirement plan".
4	(6) Subparagraphs (A) and (B) of sec-
5	tion 402(f)(1) are amended by striking
6	"another eligible retirement plan" and in-
7	serting "an eligible retirement plan".
8	(7) Subparagraph (B) of section
9	403(b)(8) is amended to read as follows:
10	"(B) CERTAIN RULES MADE APPLICA-
11	BLE.—The rules of paragraphs (2)
12	through (7) and (9) of section 402(c)
13	and section 402(f) shall apply for pur-
14	poses of subparagraph (A), except
15	that section 402(f) shall be applied to
16	the payor in lieu of the plan adminis-
17	trator.".
18	(8) Section 408(a)(1) is amended by
19	striking "or 403(b)(8)," and inserting
20	"403(b)(8), or 457(e)(16)".
21	(9) Subparagraphs (A) and (B) of sec-
22	tion 415(b)(2) are each amended by strik-
23	ing "and 408(d)(3)" and inserting

"403(b)(8), 408(d)(3), and 457(e)(16)".

- 1 (10) Section 415(c)(2) is amended by 2 striking "and 408(d)(3)" and inserting 3 "408(d)(3), and 457(e)(16)".
- 4 (11) Section 4973(b)(1)(A) is amended 5 by striking "or 408(d)(3)" and inserting 6 "408(d)(3), or 457(e)(16)".
 - (f) EFFECTIVE DATE; SPECIAL RULE.—
 - (1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.
 - any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

1	SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-
2	MENT PLANS.
3	(a) In General.—Subparagraph (A) of sec-
4	tion 408(d)(3) (relating to rollover amounts) is
5	amended by adding "or" at the end of clause
6	(i), by striking clauses (ii) and (iii), and by
7	adding at the end the following:
8	"(ii) the entire amount re-
9	ceived (including money and any
10	other property) is paid into an eli-
11	gible retirement plan for the ben-
12	efit of such individual not later
13	than the 60th day after the date
14	on which the payment or distribu-
15	tion is received, except that the
16	maximum amount which may be
17	paid into such plan may not ex-
18	ceed the portion of the amount
19	received which is includible in
20	gross income (determined without
21	regard to this paragraph).
22	For purposes of clause (ii), the term
23	'eligible retirement plan' means an el-
24	igible retirement plan described in
25	clause (iii), (iv), (v), or (vi) of section
26	402(c)(8)(B).".

1	(b) Conforming Amendments.—
2	(1) Paragraph (1) of section 403(b) is
3	amended by striking "section
4	408(d)(3)(A)(iii)" and inserting "section
5	408(d)(3)(A)(ii)".
6	(2) Clause (i) of section 408(d)(3)(D) is
7	amended by striking "(i), (ii), or (iii)" and
8	inserting "(i) or (ii)".
9	(3) Subparagraph (G) of section
10	408(d)(3) is amended to read as follows:
11	"(G) SIMPLE RETIREMENT AC-
12	COUNTS.—In the case of any payment
13	or distribution out of a simple retire-
14	ment account (as defined in sub-
15	section (p)) to which section 72(t)(6)
16	applies, this paragraph shall not
17	apply unless such payment or dis-
18	tribution is paid into another simple
19	retirement account.".
20	(c) Effective Date; Special Rule.—
21	(1) EFFECTIVE DATE.—The amendments
22	made by this section shall apply to dis-
23	tributions after the date of the enactment

of this Act.

SPECIAL RULE.—Notwithstanding 1 **(2)** any other provision of law, subsections 2 (h)(3) and (h)(5) of section 1122 of the Tax 3 Reform Act of 1986 shall not apply to any distribution from an eligible retirement 5 plan (as defined in clause (iii) or (iv) of 6 7 section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an indi-8 vidual if there was a rollover to such 9 plan on behalf of such individual which 10 11 is permitted solely by reason of the 12 amendments made by this section.

- 13 SEC. 403. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.
- 14 (a) ROLLOVERS FROM EXEMPT TRUSTS.—
 15 Paragraph (2) of section 402(c) (relating to
- 16 maximum amount which may be rolled over)
- 17 is amended by adding at the end the fol-
- 18 lowing: "The preceding sentence shall not
- 19 apply to such distribution to the extent—
- 20 "(A) such portion is transferred in 21 a direct trustee-to-trustee transfer to 22 a qualified trust which is part of a 23 plan which is a defined contribution 24 plan and which agrees to separately

1	including separately accounting for
2	the portion of such distribution
3	which is includible in gross income
4	and the portion of such distribution
5	which is not so includible, or
6	"(B) such portion is transferred to
7	an eligible retirement plan described
8	in clause (i) or (ii) of paragraph
9	(8)(B).".
10	(b) OPTIONAL DIRECT TRANSFER OF ELIGI-
11	BLE ROLLOVER DISTRIBUTIONS.—Subparagraph
12	(B) of section 401(a)(31) (relating to limita-
13	tion) is amended by adding at the end the fol-
14	lowing: "The preceding sentence shall not
15	apply to such distribution if the plan to which
16	such distribution is transferred—
17	"(i) agrees to separately ac-
18	count for amounts so transferred,
19	including separately accounting
20	for the portion of such distribu-
21	tion which is includible in gross
22	income and the portion of such
23	distribution which is not so in-
24	cludible, or

1	"(ii) is an eligible retirement
2	plan described in clause (i) or (ii)
3	of section 402(c)(8)(B).".
4	(c) Rules for Applying Section 72 to
5	IRAs.—Paragraph (3) of section 408(d) (relat-
6	ing to special rules for applying section 72) is
7	amended by inserting at the end the fol-
8	lowing:
9	"(H) APPLICATION OF SECTION 72.—
10	"(i) In general.—If—
11	"(I) a distribution is made
12	from an individual retirement
13	plan, and
14	"(II) a rollover contribu-
15	tion is made to an eligible re-
16	tirement plan described in
17	section $402(c)(8)(B)(iii)$, (iv),
18	(v), or (vi) with respect to all
19	or part of such distribution,
20	then, notwithstanding paragraph
21	(2), the rules of clause (ii) shall
22	apply for purposes of applying
23	section 72.

1 "(ii) APPLICABLE RULES.—In
2 the case of a distribution de-
3 scribed in clause (i)—
4 "(I) section 72 shall be ap-
5 plied separately to such dis-
6 tribution,
7 "(II) notwithstanding the
8 pro rata allocation of income
on, and investment in, the
contract to distributions
under section 72, the portion
of such distribution rolled
over to an eligible retirement
plan described in clause (i)
shall be treated as from in-
come on the contract (to the
extent of the aggregate in
come on the contract from all
individual retirement plans of
the distributee), and
"(III) appropriate adjust
ments shall be made in apply-
ing section 72 to other dis-
24 tributions in such taxable

1	year and subsequent taxable
2	years.".
3	(d) Effective Date.—The amendments
4	made by this section shall apply to distribu-
5	tions made after the date of the enactment of
6	this Act.
7	SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.
8	(a) EXEMPT TRUSTS.—Paragraph (3) of sec-
9	tion 402(c) (relating to transfer must be made
10	within 60 days of receipt) is amended to read
11	as follows:
12	"(3) Transfer must be made within 60
13	DAYS OF RECEIPT.—
14	"(A) IN GENERAL.—Except as pro-
15	vided in subparagraph (B), paragraph
16	(1) shall not apply to any transfer of
17	a distribution made after the 60th
18	day following the day on which the
19	distributee received the property dis-
20	tributed.
21	"(B) HARDSHIP EXCEPTION.—The
22	Secretary may waive the 60-day re-
23	quirement under subparagraph (A)
24	where the failure to waive such re-
25	quirement would be against equity or

- good conscience, including casualty,
 disaster, or other events beyond the
 reasonable control of the individual
 subject to such requirement.".
- (b) IRAs.—Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by section 403, is amended by adding after subparagraph (H) the following new subparagraph:
- "(I) WAIVER OF 60-DAY REQUIRE-10 11 MENT.—The Secretary may waive the 12 60-day requirement under subparagraphs (A) and (D) where the failure 13 to waive such requirement would be 14 against equity or good conscience, in-15 cluding casualty, disaster, or other 16 17 events beyond the reasonable control 18 of the individual subject to such re-19 quirement.".
- 20 (c) EFFECTIVE DATE.—The amendments
 21 made by this section shall apply to distribu22 tions after the date of the enactment of this
 23 Act.
- 24 SEC. 405. TREATMENT OF FORMS OF DISTRIBUTION.
- 25 (a) PLAN TRANSFERS.—

1 (1) AMENDMENT OF INTERNAL REVENUE 2 CODE.—Paragraph (6) of section 411(d) 3 (relating to accrued benefit not to be decreased by amendment) is amended by 4 5 adding at the end the following: "(D) PLAN TRANSFERS.— 6 7 "(i) IN GENERAL.—A defined contribution plan (in this sub-8 9 paragraph referred to as the 'transferee plan') shall not be 10 treated as failing to meet the re-11 quirements of this 12 subsection merely because the transferee 13 14 plan does not provide some or all of the forms of distribution pre-15 viously available under another 16 17 defined contribution plan (in this 18 subparagraph referred to as the 19 'transferor plan') to the extent 20 that— "(I) the forms of distribu-21 22 tion previously available 23 under the transferor plan ap-24 plied to the account of a par-

ticipant or beneficiary under

1	the transferor plan that was
2	transferred from the trans-
3	feror plan to the transferee
4	plan pursuant to a direct
5	transfer rather than pursuant
6	to a distribution from the
7	transferor plan,
8	"(II) the terms of both the
9	transferor plan and the trans-
10	feree plan authorize the
11	transfer described in sub-
12	clause (I),
13	"(III) the transfer de-
14	scribed in subclause (I) was
15	made pursuant to a voluntary
16	election by the participant or
17	beneficiary whose account
18	was transferred to the trans-
19	feree plan,
20	"(IV) the election de-
21	scribed in subclause (III) was
22	made after the participant or
23	beneficiary received a notice
24	describing the consequences
25	of making the election, and

1	"(V) the transferee plan
2	allows the participant or ben-
3	eficiary described in sub-
4	clause (III) to receive any dis-
5	tribution to which the partici-
6	pant or beneficiary is entitled
7	under the transferee plan in
8	the form of a single sum dis-
9	tribution.

"(ii) EXCEPTION.—Clause (i) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.

"(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This subparagraph shall not apply to the

1	elimination of a form of distribution
2	with respect to any participant
3	unless—
4	"(i) a single sum payment is
5	available to such participant at
6	the same time or times as the
7	form of distribution being elimi-
8	nated, and
9	"(ii) such single sum payment
10	is based on the same or greater
11	portion of the participant's ac-
12	count as the form of distribution
13	being eliminated.".
14	(2) AMENDMENT OF ERISA.—Section
15	204(g) of the Employee Retirement In-
16	come Security Act of 1974 (29 U.S.C.
17	1054(g)) is amended by adding at the end
18	the following:
19	"(4)(A) A defined contribution plan (in
20	this subparagraph referred to as the 'trans-
21	feree plan') shall not be treated as failing to
22	meet the requirements of this subsection
23	merely because the transferee plan does not
24	provide some or all of the forms of distribu-
25	tion previously available under another de-

- 1 fined contribution plan (in this subparagraph
- 2 referred to as the 'transferor plan') to the ex-
- 3 tent that—

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- "(i) the forms of distribution pre-4 5 viously available under the transferor plan applied to the account of a partici-6 7 pant or beneficiary under the transferor plan that was transferred from the trans-8 feror plan to the transferee plan pursu-9 ant to a direct transfer rather than pur-10 suant to a distribution from the trans-11 12 feror plan;
 - "(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i);
 - "(iii) the transfer described in clause
 (i) was made pursuant to a voluntary
 election by the participant or beneficiary
 whose account was transferred to the
 transferee plan;
 - "(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election; and

"(v) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

- "(B) Subparagraph (A) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.
- 12 "(5) Except to the extent provided in regu13 lations promulgated by the Secretary of the
 14 Treasury, a defined contribution plan shall
 15 not be treated as failing to meet the require16 ments of this subsection merely because of
 17 the elimination of a form of distribution pre18 viously available thereunder. This paragraph
 19 shall not apply to the elimination of a form of
 20 distribution with respect to any participant
 21 unless—
- 22 "(A) a single sum payment is available 23 to such participant at the same time or 24 times as the form of distribution being 25 eliminated; and

- "(B) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.".
 - (3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2001.

 (b) REGULATIONS.—
 - (1) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by inserting after the second sentence the following new sentence: "The Secretary shall by regulations provide that this subparagraph shall not apply to any plan amendment which reduces or eliminates benefits or subsidies which create significant burdens or complexities for the plan and plan participants and does not adversely affect the rights of any participant in a more than de minimis manner.".
 - (2) AMENDMENT OF ERISA.—Section 204(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.

the last sentence the following new sentence: "The Secretary of the Treasury shall by regulations provide that this paragraph shall not apply to any plan amendment which reduces or eliminates benefits or subsidies which create significant burdens or complexities for the plan and plan participants and does not adversely affect the rights of any participant in a more than de minimis manner.".

(3) SECRETARY DIRECTED.—Not later than December 31, 2003, the Secretary of the Treasury is directed to issue regulations under section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974, including the regulations required by the amendment made by this subsection. Such regulations shall apply to plan years beginning after December 31, 2003, or such earlier date as is specified by the Secretary of the Treasury.

1	SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-
2	TRIBUTIONS.
3	(a) MODIFICATION OF SAME DESK EXCEP-
4	TION.—
5	(1) SECTION 401(k).—
6	(A) Section $401(k)(2)(B)(i)(I)$ (re-
7	lating to qualified cash or deferred
8	arrangements) is amended by strik-
9	ing "separation from service" and in-
10	serting "severance from employ-
11	ment".
12	(B) Subparagraph (A) of section
13	401(k)(10) (relating to distributions
14	upon termination of plan or disposi-
15	tion of assets or subsidiary) is amend-
16	ed to read as follows:
17	"(A) In general.—An event de-
18	scribed in this subparagraph is the
19	termination of the plan without es-
20	tablishment or maintenance of an-
21	other defined contribution plan
22	(other than an employee stock owner-
23	ship plan as defined in section
24	4975(e)(7)).".
25	(C) Section $401(k)(10)$ is
26	amended—

1	(i) in subparagraph (B)—
2	(I) by striking "An event"
3	in clause (i) and inserting "A
4	termination"; and
5	(II) by striking "the event"
6	in clause (i) and inserting "the
7	termination";
8	(ii) by striking subparagraph
9	(C); and
10	(iii) by striking "OR DISPOSI-
11	TION OF ASSETS OR SUBSIDIARY" in
12	the heading.
13	(2) SECTION 403(b).—
14	(A) Paragraphs (7)(A)(ii) and
15	(11)(A) of section 403(b) are each
16	amended by striking "separates from
17	service" and inserting "has a sever-
18	ance from employment".
19	(B) The heading for paragraph
20	(11) of section 403(b) is amended by
21	striking "SEPARATION FROM SERVICE"
22	and inserting "SEVERANCE FROM EM-
23	PLOYMENT".
24	(3) SECTION 457.—Clause (ii) of section
25	457(d)(1)(A) is amended by striking "is

1	separated from service" and inserting
2	"has a severance from employment".
3	(b) EFFECTIVE DATE.—The amendments
4	made by this section shall apply to distribu-
5	tions after the date of the enactment of this
6	Act.
7	SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-
8	MENTAL DEFINED BENEFIT PLANS.
9	(a) 403(b) Plans.—Subsection (b) of sec-
10	tion 403 is amended by adding at the end the
11	following new paragraph:
12	"(13) Trustee-to-trustee transfers
13	TO PURCHASE PERMISSIVE SERVICE CREDIT.—
14	No amount shall be includible in gross in-
15	come by reason of a direct trustee-to-
16	trustee transfer to a defined benefit gov-
17	ernmental plan (as defined in section
18	414(d)) if such transfer is—
19	"(A) for the purchase of permis-
20	sive service credit (as defined in sec-
21	tion 415(n)(3)(A)) under such plan, or
22	"(B) a repayment to which section
23	415 does not apply by reason of sub-
24	section (k)(3) thereof.".

1	(b) 457 Plans.—Subsection (e) of section
2	457 is amended by adding after paragraph
3	(16) the following new paragraph:
4	"(17) TRUSTEE-TO-TRUSTEE TRANSFERS
5	TO PURCHASE PERMISSIVE SERVICE CREDIT.—
6	No amount shall be includible in gross in-
7	come by reason of a direct trustee-to-
8	trustee transfer to a defined benefit gov-
9	ernmental plan (as defined in section
10	414(d)) if such transfer is—
11	"(A) for the purchase of permis-
12	sive service credit (as defined in sec-
13	tion 415(n)(3)(A)) under such plan, or
14	"(B) a repayment to which section
15	415 does not apply by reason of sub-
16	section (k)(3) thereof.".
17	(c) EFFECTIVE DATE.—The amendments
18	made by this section shall apply to trustee-to-
19	trustee transfers after the date of the enact-
20	ment of this Act.
21	SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR
22	PURPOSES OF CASH-OUT AMOUNTS.
23	(a) QUALIFIED PLANS.—
24	(1) AMENDMENT OF INTERNAL REVENUE
25	CODE.—Section 411(a)(11) (relating to re-

strictions on certain mandatory distributions) is amended by adding at the end the following:

> "(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan. the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii). and 457(e)(16).".

- (2) AMENDMENT OF ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended by adding at the end the following:
- 24 "(4) A plan shall not fail to meet the re-25 quirements of this subsection if, under the

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- 1 terms of the plan, the present value of the
- 2 nonforfeitable accrued benefit is determined
- 3 without regard to that portion of such benefit
- 4 which is attributable to rollover contributions
- 5 (and earnings allocable thereto). For purposes
- 6 of this subparagraph, the term 'rollover con-
- 7 tributions' means any rollover contribution
- 8 under sections 402(c), 403(a)(4), 403(b)(8),
- 9 408(d)(3)(A)(ii), and 457(e)(16) of the Internal
- 10 Revenue Code of 1986.".
- 11 **(b)** ELIGIBLE DEFERRED COMPENSATION
- 12 PLANS.—Clause (i) of section 457(e)(9)(A) is
- 13 amended by striking "such amount" and in-
- 14 serting "the portion of such amount which is
- 15 not attributable to rollover contributions (as
- 16 defined in section 411(a)(11)(D)".
- 17 (c) EFFECTIVE DATE.—The amendments
- 18 made by this section shall apply to distribu-
- 19 tions after December 31, 2001.
- 20 SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-
- 21 QUIREMENTS FOR SECTION 457 PLANS.
- 22 (a) MINIMUM DISTRIBUTION REQUIRE-
- 23 MENTS.—Paragraph (2) of section 457(d) (relat-
- 24 ing to distribution requirements) is amended
- 25 to read as follows:

1	"(2) MINIMUM DISTRIBUTION REQUIRE-
2	MENTS.—A plan meets the minimum dis-
3	tribution requirements of this paragraph
4	if such plan meets the requirements of
5	section 401(a)(9).".
6	(b) Inclusion in Gross Income.—
7	(1) YEAR OF INCLUSION.—Subsection (a)
8	of section 457 (relating to year of inclu-
9	sion in gross income) is amended to read
10	as follows:
11	"(a) YEAR OF INCLUSION IN GROSS INCOME.—
12	"(1) IN GENERAL.—Any amount of com-
13	pensation deferred under an eligible de-
14	ferred compensation plan, and any in-
15	come attributable to the amounts so de-
16	ferred, shall be includible in gross in-
17	come only for the taxable year in which
18	such compensation or other income—
19	"(A) is paid to the participant or
20	other beneficiary, in the case of a
21	plan of an eligible employer de-
22	scribed in subsection (e)(1)(A), and
23	"(B) is paid or otherwise made
24	available to the participant or other
25	beneficiary, in the case of a plan of

1	an eligible employer described in sub-
2	section $(e)(1)(B)$.
3	"(2) SPECIAL RULE FOR ROLLOVER
4	AMOUNTS.—To the extent provided in sec-
5	tion 72(t)(9), section 72(t) shall apply to
6	any amount includible in gross income
7	under this subsection.".
8	(2) CONFORMING AMENDMENTS.—
9	(A) So much of paragraph (9) of
10	section 457(e) as precedes subpara-
11	graph (A) is amended to read as fol-
12	lows:
13	"(9) BENEFITS OF TAX EXEMPT ORGANI-
14	ZATION PLANS NOT TREATED AS MADE AVAIL-
15	ABLE BY REASON OF CERTAIN ELECTIONS,
16	ETC.—In the case of an eligible deferred
17	compensation plan of an employer de-
18	scribed in subsection (e)(1)(B)—".
19	(B) Section 457(d) is amended by
20	adding at the end the following new
21	paragraph:
22	"(3) SPECIAL RULE FOR GOVERNMENT
23	PLAN.—An eligible deferred compensation
24	plan of an employer described in sub-
25	section (a)(1)(A) shall not be treated as

1	failing to meet the requirements of this
2	subsection solely by reason of making a
3	distribution described in subsection
4	(e)(9)(A).".
5	(c) EFFECTIVE DATE.—The amendments
6	made by this section shall apply to distribu-
7	tions after the date of the enactment of this
8	Act.
9	TITLE V—STRENGTHENING PEN-
10	SION SECURITY AND EN-
11	FORCEMENT
12	SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY
13	FUNDING LIMIT.
14	(a) AMENDMENT OF INTERNAL REVENUE
15	CODE.—Section 412(c)(7) (relating to full-fund-
16	ing limitation) is amended—
17	(1) by striking "the applicable per-
18	centage" in subparagraph (A)(i)(I) and in-
19	serting "in the case of plan years begin-
20	ning before January 1, 2004, the applica-
21	ble percentage"; and
22	(2) by amending subparagraph (F) to
23	read as follows:
24	"(F) APPLICABLE PERCENTAGE.—For
25	purposes of subparagraph (A)(i)(I),

1	the applicable percentage shall be de-
2	termined in accordance with the fol-
3	lowing table:
	"In the case of any plan year The applicable beginning in— percentage is— 2002
4	(b) AMENDMENT OF ERISA.—Section
5	302(c)(7) of the Employee Retirement Income
6	Security Act of 1974 (29 U.S.C. 1082(c)(7)) is
7	amended—
8	(1) by striking "the applicable per-
9	centage" in subparagraph (A)(i)(I) and in-
10	serting "in the case of plan years begin-
11	ning before January 1, 2004, the applica-
12	ble percentage"; and
13	(2) by amending subparagraph (F) to
14	read as follows:
15	"(F) APPLICABLE PERCENTAGE.—For
16	purposes of subparagraph (A)(i)(I), the
17	applicable percentage shall be deter-
18	mined in accordance with the following
19	table:
	"In the case of any plan year The applicable percentage is— 2002 165 2003 170."

1	(c) Effective Date.—The amendments
2	made by this section shall apply to plan years
3	beginning after December 31, 2001.
4	SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES
5	MODIFIED AND APPLIED TO ALL DEFINED
6	BENEFIT PLANS.
7	(a) In General.—Subparagraph (D) of sec-
8	tion 404(a)(1) (relating to special rule in case
9	of certain plans) is amended to read as fol-
10	lows:
11	"(D) SPECIAL RULE IN CASE OF CER-
12	TAIN PLANS.—
13	"(i) IN GENERAL.—In the case
14	of any defined benefit plan, ex-
15	cept as provided in regulations,
16	the maximum amount deductible
17	under the limitations of this para-
18	graph shall not be less than the
19	unfunded termination liability
20	(determined as if the proposed
21	termination date referred to in
22	section $4041(b)(2)(A)(i)(II)$ of the
23	Employee Retirement Income Se-
24	curity Act of 1974 were the last
25	day of the plan year).

"(ii) Plans with less than 100 1 2 PARTICIPANTS.—For purposes this subparagraph, in the case of 3 a plan which has less than 100 participants for the plan year, termination liability shall not in-6 7 clude the liability attributable to benefit increases for highly com-8 pensated employees (as defined in 9 section 414(q)) resulting from a 10 plan amendment which is made 11 or becomes effective, whichever is 12 later, within the last 2 years be-13 14 fore the termination date.

"(iii) Rule for determining Number of Participants.—For purposes of determining whether a plan has more than 100 participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(C))) shall be treated as one plan, but only employees of such member

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1	or employer shall be taken into
2	account.
3	"(iv) Plans maintained by
4	PROFESSIONAL SERVICE EMPLOY-
5	ERS.—Clause (i) shall not apply to
6	a plan described in section
7	4021(b)(13) of the Employee Re-
8	tirement Income Security Act of
9	1974.".
10	(b) CONFORMING AMENDMENT.—Paragraph
11	(6) of section 4972(c) is amended to read as fol-
12	lows:
13	"(6) EXCEPTIONS.—In determining the
14	amount of nondeductible contributions
15	for any taxable year, there shall not be
16	taken into account so much of the con-
17	tributions to one or more defined con-
18	tribution plans which are not deductible
19	when contributed solely because of sec-
20	tion 404(a)(7) as does not exceed the
21	greater of—
22	"(A) the amount of contributions
23	not in excess of 6 percent of com-
24	pensation (within the meaning of sec-
25	tion 404(a)) paid or accrued (during

1	the taxable year for which the con-
2	tributions were made) to bene-
3	ficiaries under the plans, or
4	"(B) the sum of—
5	"(i) the amount of contribu-
6	tions described in section
7	401(m)(4)(A), plus
8	"(ii) the amount of contribu-
9	tions described in section
10	402(g)(3)(A).
11	For purposes of this paragraph, the de-
12	ductible limits under section 404(a)(7)
13	shall first be applied to amounts contrib-
14	uted to a defined benefit plan and then to
15	amounts described in subparagraph (B).".
16	(c) EFFECTIVE DATE.—The amendments
17	made by this section shall apply to plan years
18	beginning after December 31, 2001.
19	SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-
20	ING.
21	(a) In General.—Subsection (c) of section
22	4972 (relating to nondeductible contributions)
23	is amended by adding at the end the following
24	new paragraph:

"(7) DEFINED BENEFIT PLAN EXCEP-1 2 TION.—In determining the amount of non-3 deductible contributions for any taxable year, an employer may elect for such year 4 5 not to take into account any contributions to a defined benefit plan except to 6 the extent that such contributions exceed 7 the full-funding limitation (as defined in 8 section 412(c)(7), determined without re-9 gard to subparagraph (A)(i)(I) thereof). 10 For purposes of this paragraph, the de-11 ductible limits under section 404(a)(7) 12 shall first be applied to amounts contrib-13 uted to defined contribution plans and 14 then to amounts described in this para-15 graph. If an employer makes an election 16 under this paragraph for a taxable year, 17 18 paragraph (6) shall not apply to such employer for such taxable year.". 19

20 **(b)** EFFECTIVE DATE.—The amendment 21 made by this section shall apply to years be-22 ginning after December 31, 2001.

1	SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY
2	DEFINED BENEFIT PLANS SIGNIFICANTLY
3	REDUCING FUTURE BENEFIT ACCRUALS.
4	(a) AMENDMENT OF INTERNAL REVENUE
5	Code.—
6	(1) IN GENERAL.—Chapter 43 (relating
7	to qualified pension, etc., plans) is
8	amended by adding at the end the fol-
9	lowing new section:
10	"SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING
11	BENEFIT ACCRUALS TO SATISFY NOTICE RE-
12	QUIREMENTS.
13	"(a) IMPOSITION OF TAX.—There is hereby
14	imposed a tax on the failure of any applicable
15	pension plan to meet the requirements of sub-
16	section (e) with respect to any applicable indi-
17	vidual.
18	"(b) AMOUNT OF TAX.—
19	"(1) IN GENERAL.—The amount of the
20	tax imposed by subsection (a) on any fail-
21	ure with respect to any applicable indi-
22	vidual shall be \$100 for each day in the
23	noncompliance period with respect to
24	such failure.
25	"(2) NONCOMPLIANCE PERIOD.—For pur-
26	poses of this section, the term 'non-

compliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) Overall limitation for uninten-TIONAL FAILURES.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as one plan. For purposes of this paragraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

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1	"(2) WAIVER BY SECRETARY.—In the
2	case of a failure which is due to reason-
3	able cause and not to willful neglect, the
4	Secretary may waive part or all of the tax
5	imposed by subsection (a) to the extent
6	that the payment of such tax would be
7	excessive relative to the failure involved.
8	"(d) LIABILITY FOR TAX.—The following
9	shall be liable for the tax imposed by sub-
10	section (a):
11	"(1) In the case of a plan other than a
12	multiemployer plan, the employer.
13	"(2) In the case of a multiemployer
14	plan, the plan.
15	"(e) NOTICE REQUIREMENTS FOR PLANS SIG-
16	NIFICANTLY REDUCING BENEFIT ACCRUALS.—
17	"(1) In GENERAL.—If an applicable
18	pension plan is amended to provide for a
19	significant reduction in the rate of future
20	benefit accrual, the plan administrator
21	shall provide written notice to each ap-
22	plicable individual (and to each employee
23	organization representing applicable in-
24	dividuals)

"(2) NOTICE.—The notice required by paragraph (1) shall be written in a man-ner calculated to be understood by the average plan participant and shall pro-vide sufficient information (as deter-mined in accordance with regulations prescribed by the Secretary) to allow applicable individuals to understand the ef-fect of the plan amendment. The Sec-retary may provide a simplified form of notice for, or exempt from any notice re-quirement, a plan—

- "(A) which has fewer than 100 participants who have accrued a benefit under the plan, or
- "(B) which offers participants the option to choose between the new benefit formula and the old benefit formula.
- "(3) TIMING OF NOTICE.—Except as provided in regulations, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

1	"(4) DESIGNEES.—Any notice under
2	paragraph (1) may be provided to a per-
3	son designated, in writing, by the person
4	to which it would otherwise be provided.
5	"(5) NOTICE BEFORE ADOPTION OF
6	AMENDMENT.—A plan shall not be treated
7	as failing to meet the requirements of
8	paragraph (1) merely because notice is
9	provided before the adoption of the plan
10	amendment if no material modification of
11	the amendment occurs before the amend-
12	ment is adopted.
13	"(f) DEFINITIONS AND SPECIAL RULES.—For
14	purposes of this section—
15	"(1) APPLICABLE INDIVIDUAL.—The
16	term 'applicable individual' means, with
17	respect to any plan amendment—
18	"(A) each participant in the plan,
19	and
20	"(B) any beneficiary who is an al-
21	ternate payee (within the meaning of
22	section 414(p)(8)) under an applicable
23	qualified domestic relations order
24	(within the meaning of section
25	414(p)(1)(A)),

1	whose note of future herefit seemed
	whose rate of future benefit accrual
2	under the plan may reasonably be ex-
3	pected to be significantly reduced by
4	such plan amendment.
5	"(2) APPLICABLE PENSION PLAN.—The
6	term 'applicable pension plan' means—
7	"(A) any defined benefit plan, or
8	"(B) an individual account plan
9	which is subject to the funding stand-
10	ards of section 412.
11	Such term shall not include a govern-
12	mental plan (within the meaning of sec-
13	tion 414(d)) or a church plan (within the
14	meaning of section 414(e)) with respect to
15	which the election provided by section
16	410(d) has not been made.
17	"(3) EARLY RETIREMENT.—A plan
18	amendment which eliminates or signifi-
19	cantly reduces any early retirement ben-
20	efit or retirement-type subsidy (within
21	the meaning of section 411(d)(6)(B)(i))
22	shall be treated as having the effect of
23	significantly reducing the rate of future

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benefit accrual.

1	"(g)	New	TECHNOLOGIES.—T	he	Secretary
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- 2 may by regulations allow any notice under
- 3 subsection (e) to be provided by using new
- 4 technologies.".
- 5 (2) CLERICAL AMENDMENT.—The table
- of sections for chapter 43 is amended by
- 7 adding at the end the following new item:

"Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.".

- 8 **(b)** AMENDMENT OF ERISA.—Section 204(h)
- 9 of the Employee Retirement Income Security
- 10 Act of 1974 (29 U.S.C. 1054(h)) is amended by
- 11 adding at the end the following new para-
- 12 graphs:
- 13 "(3)(A) An applicable pension plan to
- 14 which paragraph (1) applies shall not be
- 15 treated as meeting the requirements of such
- 16 paragraph unless, in addition to any notice
- 17 required to be provided to an individual or
- 18 organization under such paragraph, the plan
- 19 administrator provides the notice described
- 20 in subparagraph (B) to each applicable indi-
- 21 vidual (and to each employee organization
- 22 representing applicable individuals).
- 23 **"(B) The notice required by subparagraph**
- 24 (A) shall be written in a manner calculated to

- 1 be understood by the average plan partici-
- 2 pant and shall provide sufficient information
- 3 (as determined in accordance with regula-
- 4 tions prescribed by the Secretary of the
- 5 Treasury) to allow applicable individuals to
- 6 understand the effect of the plan amendment.
- 7 The Secretary of the Treasury may provide a
- 8 simplified form of notice for, or exempt from
- 9 any notice requirement, a plan—
- "(i) which has fewer than 100 partici-
- pants who have accrued a benefit under
- 12 **the plan, or**
- "(ii) which offers participants the op-
- tion to choose between the new benefit
- 15 **formula and the old benefit formula.**
- 16 "(C) Except as provided in regulations
- 17 prescribed by the Secretary of the Treasury,
- 18 the notice required by subparagraph (A) shall
- 19 be provided within a reasonable time before
- 20 the effective date of the plan amendment.
- 21 "(D) Any notice under subparagraph (A)
- 22 may be provided to a person designated, in
- 23 writing, by the person to which it would oth-
- 24 erwise be provided.

1	"(E) A plan shall not be treated as failing
2	to meet the requirements of subparagraph (A)
3	merely because notice is provided before the
4	adoption of the plan amendment if no mate-
5	rial modification of the amendment occurs be-
6	fore the amendment is adopted.
7	"(F) The Secretary of the Treasury may by
8	regulations allow any notice under this para-
9	graph to be provided by using new tech-
10	nologies.
11	"(4) For purposes of paragraph (3)—
12	"(A) The term 'applicable individual'
13	means, with respect to any plan
14	amendment—
15	"(i) each participant in the plan;
16	and
17	"(ii) any beneficiary who is an al-
18	ternate payee (within the meaning of
19	section 206(d)(3)(K)) under an appli-
20	cable qualified domestic relations
21	order (within the meaning of section
22	206(d)(3)(B)(i)),
23	whose rate of future benefit accrual
24	under the plan may reasonably be ex-

1	pected to be significantly reduced by
2	such plan amendment.
3	"(B) The term 'applicable pension
4	plan' means—
5	"(i) any defined benefit plan; or
6	"(ii) an individual account plan
7	which is subject to the funding stand-
8	ards of section 412 of the Internal
9	Revenue Code of 1986.
10	"(C) A plan amendment which elimi-
11	nates or significantly reduces any early
12	retirement benefit or retirement-type
13	subsidy (within the meaning of sub-
14	section (g)(2)(A)) shall be treated as hav-
15	ing the effect of significantly reducing
16	the rate of future benefit accrual.".
17	(c) EFFECTIVE DATES.—
18	(1) IN GENERAL.—The amendments
19	made by this section shall apply to plan
20	amendments taking effect on or after the
21	date of the enactment of this Act.
22	(2) Transition.—Until such time as
23	the Secretary of the Treasury issues regu-
24	lations under sections $4980F(e)(2)$ and (3)

of the Internal Revenue Code of 1986, and

- section 204(h)(3) of the Employee Retirement Income Security Act of 1974, as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.
 - (3) SPECIAL NOTICE RULE.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.
 - (4) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, before April 25, 2001, notice was provided to participants and beneficiaries adversely affected by the plan amendment (or their representatives) which was reasonably expected to notify them of the nature and effective date of the plan amendment.

1	(d) STUDY.—The Secretary of the Treasury
2	shall prepare a report on the effects of con-
3	versions of traditional defined benefit plans
4	to cash balance or hybrid formula plans. Such
5	study shall examine the effect of such conver-
6	sions on longer service participants, includ-
7	ing the incidence and effects of "wear away"
8	provisions under which participants earn no
9	additional benefits for a period of time after
10	the conversion. As soon as practicable, but
11	not later than 60 days after the date of the en-
12	actment of this Act, the Secretary shall submit
13	such report, together with recommendations
14	thereon, to the Committee on Ways and Means
15	and the Committee on Education and the
16	Workforce of the House of Representatives
17	and the Committee on Finance and the Com-
18	mittee on Health, Education, Labor, and Pen-
19	sions of the Senate.
20	SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER
21	SECTION 415.
22	(a) COMPENSATION LIMIT.—
23	(1) In GENERAL.—Paragraph (11) of
24	section 415(b) (relating to limitation for

1	defined benefit plans) is amended to read
2	as follows:
3	"(11) SPECIAL LIMITATION RULE FOR
4	GOVERNMENTAL AND MULTIEMPLOYER
5	PLANS.—In the case of a governmental
6	plan (as defined in section 414(d)) or a
7	multiemployer plan (as defined in section
8	414(f)), subparagraph (B) of paragraph (1)
9	shall not apply.".
10	(2) CONFORMING AMENDMENT.—Section
11	415(b)(7) (relating to benefits under cer-
12	tain collectively bargained plans) is
13	amended by inserting "(other than a mul-
14	tiemployer plan)" after "defined benefit
15	plan" in the matter preceding subpara-
16	graph (A).
17	(b) Combining and Aggregation of
18	PLANS.—
19	(1) COMBINING OF PLANS.—Subsection
20	(f) of section 415 (relating to combining of
21	plans) is amended by adding at the end
22	the following:
23	"(3) EXCEPTION FOR MULTIEMPLOYER
24	PLANS.—Notwithstanding paragraph (1)
25	and subsection (g), a multiemployer plan

- (as defined in section 414(f)) shall not be 1 combined or aggregated with any other 2 plan maintained by an employer for pur-3 poses of applying the limitations estab-4 lished in this section, except that such 5 plan shall be combined or aggregated 6 with another plan which is not such a 7 multiemployer plan solely for purposes of 8 determining whether such other plan 9 meets the requirements of subsections 10 (b)(1)(A) and (c).". 11
- 12 (2) CONFORMING AMENDMENT FOR AG13 GREGATION OF PLANS.—Subsection (g) of
 14 section 415 (relating to aggregation of
 15 plans) is amended by striking "The Sec16 retary" and inserting "Except as provided
 17 in subsection (f)(3), the Secretary".
- 18 (c) EFFECTIVE DATE.—The amendments 19 made by this section shall apply to years be-20 ginning after December 31, 2001.
- 21 SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE
 22 CONTRIBUTIONS TO 401(K) PLANS.
- 23 (a) In GENERAL.—Section 1524(b) of the 24 Taxpayer Relief Act of 1997 is amended to 25 read as follows:

- 1 **"(b) EFFECTIVE DATE.—**
- 2 "(1) IN GENERAL.—Except as provided
- 3 in paragraph (2), the amendments made
- 4 by this section shall apply to elective de-
- 5 ferrals for plan years beginning after De-
- 6 **cember 31, 1998.**
- 7 "(2) Nonapplication to previously
- 8 ACQUIRED PROPERTY.—The amendments
- 9 made by this section shall not apply to
- any elective deferral which is invested in
- assets consisting of qualifying employer
- securities, qualifying employer real prop-
- erty, or both, if such assets were acquired
- 14 **before January 1, 1999.".**
- 15 **(b) EFFECTIVE DATE.—The amendment**
- 16 made by this section shall apply as if included
- 17 in the provision of the Taxpayer Relief Act of
- 18 1997 to which it relates.
- 19 SEC. 507. PERIODIC PENSION BENEFITS STATEMENTS.
- 20 (a) In General.—Section 105(a) of the Em-
- 21 ployee Retirement Income Security Act of
- 22 **1974** (**29 U.S.C. 1025** (a)) is amended to read as
- 23 **follows:**

1	"Sec. 105. (a)(1)(A) The administrator of
2	an individual account plan shall furnish a
3	pension benefit statement—
4	"(i) to a plan participant at least once
5	annually, and
6	"(ii) to a plan beneficiary upon writ-
7	ten request.
8	"(B) The administrator of a defined ben-
9	efit plan shall furnish a pension benefit
10	statement—
11	"(i) at least once every 3 years to each
12	participant with a nonforfeitable accrued
13	benefit who is employed by the employer
14	maintaining the plan at the time the
15	statement is furnished to participants,
16	and
17	"(ii) to a plan participant or plan ben-
18	eficiary of the plan upon written request.
19	"(2) A pension benefit statement under
20	paragraph (1)—
21	"(A) shall indicate, on the basis of the
22	latest available information—
23	"(i) the total benefits accrued, and
24	"(ii) the nonforfeitable pension
25	benefits, if any, which have accrued.

1	or the earliest date on which benefits
2	will become nonforfeitable,
3	"(B) shall be written in a manner cal-
4	culated to be understood by the average
5	plan participant, and
6	"(C) may be provided in written, elec-
7	tronic, or other appropriate form.
8	"(3)(A) In the case of a defined benefit
9	plan, the requirements of paragraph $(1)(B)(i)$
10	shall be treated as met with respect to a par-
11	ticipant if the administrator provides the par-
12	ticipant at least once each year with notice of
13	the availability of the pension benefit state-
14	ment and the ways in which the participant
15	may obtain such statement. Such notice shall
16	be provided in written, electronic, or other
17	appropriate form, and may be included with
18	other communications to the participant if
19	done in a manner reasonably designed to at-
20	tract the attention of the participant.
21	"(B) The Secretary may provide that years
22	in which no employee or former employee
23	benefits (within the meaning of section 410(b)
24	of the Internal Revenue Code of 1986) under
25	the plan need not be taken into account in de-

- 1 termining the 3-year period under paragraph
- 2 **(1)(B)(i).".**
- 3 **(b) Conforming Amendments.—**
- 4 (1) Section 105 of the Employee Re-
- 5 tirement Income Security Act of 1974 (29
- 6 U.S.C. 1025) is amended by striking sub-
- 7 section (d).
- 8 (2) Section 105(b) of such Act (29)
- 9 U.S.C. 1025(b)) is amended to read as fol-
- 10 **lows:**
- 11 "(b) In no case shall a participant or bene-
- 12 ficiary of a plan be entitled to more than one
- 13 statement described in subsection (a)(1)(A) or
- 14 (a)(1)(B)(ii), whichever is applicable, in any
- 15 **12-month period.".**
- 16 (c) MODEL STATEMENTS.—The Secretary of
- 17 Labor shall develop a model benefit state-
- 18 ment, written in a manner calculated to be
- 19 understood by the average plan participant,
- 20 that may be used by plan administrators in
- 21 complying with the requirements of section
- 22 105 of the Employee Retirement Income Secu-
- 23 rity Act of 1974.

1	(d) EFFECTIVE DATE.—The amendments
2	made by this section shall apply to plan years
3	beginning after December 31, 2002.
4	SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR
5	PORATION ESOP.
6	(a) In General.—Section 409 (relating to
7	qualifications for tax credit employee stock
8	ownership plans) is amended by redesig-
9	nating subsection (p) as subsection (q) and by
10	inserting after subsection (o) the following
11	new subsection:
12	"(p) Prohibited Allocations of Securi-
13	TIES IN AN S CORPORATION.—
14	"(1) IN GENERAL.—An employee stock
15	ownership plan holding employer securi-
16	ties consisting of stock in an S corpora-
17	tion shall provide that no portion of the
18	assets of the plan attributable to (or allo-
19	cable in lieu of) such employer securities
20	may, during a nonallocation year, accrue
21	(or be allocated directly or indirectly
22	under any plan of the employer meeting
23	the requirements of section $401(a)$) for

"(2) FAILURE TO MEET REQUIREMENTS.—

the benefit of any disqualified person.

24

1	"(A) IN GENERAL.—If a plan fails to
2	meet the requirements of paragraph
3	(1), the plan shall be treated as hav-
4	ing distributed to any disqualified
5	person the amount allocated to the
6	account of such person in violation of
7	paragraph (1) at the time of such allo-
8	cation.
9	"(B) Cross reference.—
	"For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.
10	"(3) NONALLOCATION YEAR.—For pur-
11	poses of this subsection—
12	"(A) IN GENERAL.—The term 'non-
13	allocation year' means any plan year
14	of an employee stock ownership plan
15	if, at any time during such plan
16	year—
17	"(i) such plan holds employer
18	securities consisting of stock in
19	an S corporation, and
20	"(ii) disqualified persons own
21	at least 50 percent of the number
22	of shares of stock in the S cor-
23	poration.

1	"(B) ATTRIBUTION RULES.—For pur-
2	poses of subparagraph (A)—
3	"(i) IN GENERAL.—The rules of
4	section 318(a) shall apply for pur-
5	poses of determining ownership,
6	except that—
7	"(I) in applying paragraph
8	(1) thereof, the members of an
9	individual's family shall in-
10	clude members of the family
11	described in paragraph (4)(D),
12	and
13	"(II) paragraph (4) thereof
14	shall not apply.
15	"(ii) DEEMED-OWNED SHARES.—
16	Notwithstanding the employee
17	trust exception in section
18	318(a)(2)(B)(i), individual shall be
19	treated as owning deemed-owned
20	shares of the individual.
21	Solely for purposes of applying para-
22	graph (5), this subparagraph shall be
23	applied after the attribution rules of
24	paragraph (5) have been applied.

1	"(4) DISQUALIFIED PERSON.—For pur-
2	poses of this subsection—
3	"(A) IN GENERAL.—The term 'dis-
4	qualified person' means any person
5	if —
6	"(i) the aggregate number of
7	deemed-owned shares of such
8	person and the members of such
9	person's family is at least 20 per-
10	cent of the number of deemed-
11	owned shares of stock in the S
12	corporation, or
13	"(ii) in the case of a person
14	not described in clause (i), the
15	number of deemed-owned shares
16	of such person is at least 10 per-
17	cent of the number of deemed-
18	owned shares of stock in such
19	corporation.
20	"(B) TREATMENT OF FAMILY MEM-
21	BERS.—In the case of a disqualified
22	person described in subparagraph
23	(A)(i), any member of such person's
24	family with deemed-owned shares
25	shall be treated as a disqualified per-

1	son if not otherwise treated as a dis-
2	qualified person under subparagraph
3	(A).
4	"(C) DEEMED-OWNED SHARES.—
5	"(i) In GENERAL.—The term
6	'deemed-owned shares' means,
7	with respect to any person—
8	"(I) the stock in the S cor-
9	poration constituting em-
10	ployer securities of an em-
11	ployee stock ownership plan
12	which is allocated to such
13	person under the plan, and
14	"(II) such person's share
15	of the stock in such corpora-
16	tion which is held by such
17	plan but which is not allo-
18	cated under the plan to par-
19	ticipants.
20	"(ii) Person's share of
21	UNALLOCATED STOCK.—For pur-
22	poses of clause (i)(II), a person's
23	share of unallocated S corpora-
24	tion stock held by such plan is the
25	amount of the unallocated stock

1	which would be allocated to such
2	person if the unallocated stock
3	were allocated to all participants
4	in the same proportions as the
5	most recent stock allocation
6	under the plan.
7	"(D) MEMBER OF FAMILY.—For pur-
8	poses of this paragraph, the term
9	'member of the family' means, with
10	respect to any individual—
11	"(i) the spouse of the indi-
12	vidual,
13	"(ii) an ancestor or lineal de-
14	scendant of the individual or the
15	individual's spouse,
16	"(iii) a brother or sister of the
17	individual or the individual's
18	spouse and any lineal descendant
19	of the brother or sister, and
20	"(iv) the spouse of any indi-
21	vidual described in clause (ii) or
22	(iii).
23	A spouse of an individual who is le-
24	gally separated from such individual
25	under a decree of divorce or separate

	= . ~
1	maintenance shall not be treated as
2	such individual's spouse for purposes
3	of this subparagraph.
4	"(5) TREATMENT OF SYNTHETIC EQ-
5	UITY.—For purposes of paragraphs (3) and
6	(4), in the case of a person who owns syn-
7	thetic equity in the S corporation, except
8	to the extent provided in regulations, the
9	shares of stock in such corporation on
10	which such synthetic equity is based
11	shall be treated as outstanding stock in
12	such corporation and deemed-owned
13	shares of such person if such treatment
14	of synthetic equity of 1 or more such per-
15	sons results in—
16	"(A) the treatment of any person
17	as a disqualified person, or
18	"(B) the treatment of any year as
19	a nonallocation year.
20	For purposes of this paragraph, synthetic
21	equity shall be treated as owned by a per-
22	son in the same manner as stock is treat-
23	ed as owned by a person under the rules

of paragraphs (2) and (3) of section

318(a). If, without regard to this para-

24

1	graph, a person is treated as a disquali-
2	fied person or a year is treated as a non-
3	allocation year, this paragraph shall not
4	be construed to result in the person or
5	year not being so treated.

- "(6) DEFINITIONS.—For purposes of this subsection—
 - "(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).
 - "(B) EMPLOYER SECURITIES.—The term 'employer security' has the meaning given such term by section 409(1).
 - "(C) Synthetic equity' means any stock option, warrant, restricted stock, deferred issuance stock right, or similar interest or right that gives the holder the right to acquire or receive stock of the S corporation in the future. Except to the extent provided in regulations, synthetic equity also includes a stock appreciation right, phantom

1	stock unit, or similar right to a future
2	cash payment based on the value of
3	such stock or appreciation in such
4	value.
5	"(7) REGULATIONS.—The Secretary
6	shall prescribe such regulations as may
7	be necessary to carry out the purposes of
8	this subsection.".
9	(b) COORDINATION WITH SECTION
10	4975(e)(7).—The last sentence of section
11	4975(e)(7) (defining employee stock owner-
12	ship plan) is amended by inserting ", section
13	409(p)," after "409(n)".
14	(c) EXCISE TAX.—
15	(1) APPLICATION OF TAX.—Subsection
16	(a) of section 4979A (relating to tax on
17	certain prohibited allocations of em-
18	ployer securities) is amended—
19	(A) by striking "or" at the end of
20	paragraph (1), and
21	(B) by striking all that follows
22	paragraph (2) and inserting the fol-
23	lowing:
24	"(3) there is any allocation of em-
25	ployer securities which violates the pro-

1	visions of section 409(p), or a nonalloca-
2	tion year described in subsection $(e)(2)(C)$
3	with respect to an employee stock owner-
4	ship plan, or
5	"(4) any synthetic equity is owned by
6	a disqualified person in any nonalloca-
7	tion year,
8	there is hereby imposed a tax on such alloca-
9	tion or ownership equal to 50 percent of the
10	amount involved.".
11	(2) LIABILITY.—Section 4979A(c) (de-
12	fining liability for tax) is amended to
13	read as follows:
14	"(c) LIABILITY FOR TAX.—The tax imposed
15	by this section shall be paid—
16	"(1) in the case of an allocation re-
17	ferred to in paragraph (1) or (2) of sub-
18	section (a), by—
19	"(A) the employer sponsoring
20	such plan, or
21	"(B) the eligible worker-owned co-
22	operative,
23	which made the written statement de-
24	scribed in section 661(a)(1)(F) or in sec-

1	tion 1042(b)(3)(B) (as the case may be),
2	and
3	"(2) in the case of an allocation or
4	ownership referred to in paragraph (3) or
5	(4) of subsection (a), by the S corporation
6	the stock in which was so allocated or
7	owned.".
8	(3) Definitions.—Section 4979A(e) (re-
9	lating to definitions) is amended to read
10	as follows:
11	"(e) DEFINITIONS AND SPECIAL RULES.—For
12	purposes of this section—
13	"(1) DEFINITIONS.—Except as provided
14	in paragraph (2), terms used in this sec-
15	tion have the same respective meanings
16	as when used in sections 409 and 4978.
17	"(2) SPECIAL RULES RELATING TO TAX
18	IMPOSED BY REASON OF PARAGRAPH (3) OR (4)
19	OF SUBSECTION (a).—
20	"(A) PROHIBITED ALLOCATIONS.—
21	The amount involved with respect to
22	any tax imposed by reason of sub-
23	section (a)(3) is the amount allocated
24	to the account of any person in viola-
25	tion of section $409(p)(1)$.

1	"(B) SYNTHETIC EQUITY.—The
2	amount involved with respect to any
3	tax imposed by reason of subsection
4	(a)(4) is the value of the shares on
5	which the synthetic equity is based.
6	"(C) SPECIAL RULE DURING FIRST
7	NONALLOCATION YEAR.—For purposes
8	of subparagraph (A), the amount in-
9	volved for the first nonallocation year
10	of any employee stock ownership
11	plan shall be determined by taking
12	into account the total value of all the
13	deemed-owned shares of all disquali-
14	fied persons with respect to such
15	plan.
16	"(D) STATUTE OF LIMITATIONS.—The
17	statutory period for the assessment of
18	any tax imposed by this section by
19	reason of paragraph (3) or (4) of sub-
20	section (a) shall not expire before the
21	date which is 3 years from the later
22	of—
23	"(i) the allocation or owner-
24	ship referred to in such para-

graph giving rise to such tax, or

1	"(ii) the date on which the
2	Secretary is notified of such allo-
3	cation or ownership.".
4	(d) EFFECTIVE DATES.—
5	(1) IN GENERAL.—The amendments
6	made by this section shall apply to plan
7	years beginning after December 31, 2004.
8	(2) Exception for certain plans.—In
9	the case of any—
10	(A) employee stock ownership
11	plan established after March 14, 2001,
12	or
13	(B) employee stock ownership
14	plan established on or before such
15	date if employer securities held by
16	the plan consist of stock in a corpora-
17	tion with respect to which an election
18	under section 1362(a) of the Internal
19	Revenue Code of 1986 is not in effect
20	on such date,
21	the amendments made by this section
22	shall apply to plan years ending after
23	March 14, 2001.

1	TITLE VI—REDUCING
2	REGULATORY BURDENS
3	SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.
4	(a) AMENDMENT OF INTERNAL REVENUE
5	CODE.—Paragraph (9) of section 412(c)(9) (re-
6	lating to annual valuation) is amended to
7	read as follows:
8	"(9) ANNUAL VALUATION.—
9	"(A) In general.—For purposes of
10	this section, a determination of expe-
11	rience gains and losses and a valu-
12	ation of the plan's liability shall be
13	made not less frequently than once
14	every year, except that such deter-
15	mination shall be made more fre-
16	quently to the extent required in par-
17	ticular cases under regulations pre-
18	scribed by the Secretary.
19	"(B) VALUATION DATE.—
20	"(i) CURRENT YEAR.—Except as
21	provided in clause (ii), the valu-
22	ation referred to in subparagraph
23	(A) shall be made as of a date
24	within the plan year to which the

valuation refers or within one

1	month prior to the beginning of
2	such year.
3	"(ii) Election to use prior
4	YEAR VALUATION.—The valuation
5	referred to in subparagraph (A)
6	may be made as of a date within
7	the plan year prior to the year to
8	which the valuation refers if—
9	"(I) an election is in effect
10	under this clause with respect
11	to the plan, and
12	"(II) as of such date, the
13	value of the assets of the plan
14	are not less than 125 percent
15	of the plan's current liability
16	(as defined in paragraph
17	(7)(B)).
18	"(iii) Adjustments.—Informa-
19	tion under clause (ii) shall, in ac-
20	cordance with regulations, be ac-
21	tuarially adjusted to reflect sig-
22	nificant differences in partici-
23	pants.
24	"(iv) ELECTION.—An election
25	under clause (ii), once made, shall

1	be irrevocable without the con-
2	sent of the Secretary.".
3	(b) AMENDMENT OF ERISA.—Paragraph (9)
4	of section 302(c) of the Employee Retirement
5	Income Security Act of 1974 (29 U.S.C. 1053(c))
6	is amended—
7	(1) by inserting "(A)" after "(9)"; and
8	(2) by adding at the end the fol-
9	lowing:
10	"(B)(i) Except as provided in clause (ii),
11	the valuation referred to in subparagraph (A)
12	shall be made as of a date within the plan
13	year to which the valuation refers or within
14	one month prior to the beginning of such
15	year.
16	"(ii) The valuation referred to in subpara-
17	graph (A) may be made as of a date within the
18	plan year prior to the year to which the valu-
19	ation refers if—
20	"(I) an election is in effect under this
21	clause with respect to the plan; and
22	"(II) as of such date, the value of the
23	assets of the plan are not less than 125
24	percent of the plan's current liability (as
25	defined in paragraph (7)(B)).

1	"(iii) Information under clause (ii) shall,
2	in accordance with regulations, be actuarially
3	adjusted to reflect significant differences in
4	participants.
5	"(iv) An election under clause (ii), once
6	made, shall be irrevocable without the con-
7	sent of the Secretary of the Treasury.".
8	(c) EFFECTIVE DATE.—The amendments
9	made by this section shall apply to plan years
10	beginning after December 31, 2001.
11	SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT
12	LOSS OF DIVIDEND DEDUCTION.
13	(a) In General.—Section 404(k)(2)(A) (de-
14	fining applicable dividends) is amended by
15	striking "or" at the end of clause (ii), by redes-
16	ignating clause (iii) as clause (iv), and by in-
17	serting after clause (ii) the following new
18	clause:
19	"(iii) is, at the election of such
20	participants or their
21	beneficiaries—
22	"(I) payable as provided in
23	clause (i) or (ii), or

1	"(II) paid to the plan and
2	reinvested in qualifying em-
3	ployer securities, or".
4	(b) EFFECTIVE DATE.—The amendments
5	made by this section shall apply to taxable
6	years beginning after December 31, 2000.
7	SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-
8	TAIN HIGHLY COMPENSATED EMPLOYEES.
9	(a) In General.—Paragraph (4) of section
10	1114(c) of the Tax Reform Act of 1986 is here-
11	by repealed.
12	(b) EFFECTIVE DATE.—The repeal made by
13	subsection (a) shall apply to plan years begin-
14	ning after December 31, 2001.
15	SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.
16	(a) In General.—The Secretary of the
17	Treasury shall modify Treasury Regulations
18	section 1.410(b)-6(g) to provide that employ-
19	ees of an organization described in section
20	403(b)(1)(A)(i) of the Internal Revenue Code of
21	1986 who are eligible to make contributions
22	under section 403(b) of such Code pursuant to
23	a salary reduction agreement may be treated
24	as excludable with respect to a plan under
25	section 401(k) or (m) of such Code that is pro-

- vided under the same general arrangement as
 a plan under such section 401(k), if—
- (1) no employee of an organization described in section 403(b)(1)(A)(i) of such Code is eligible to participate in such section 401(k) plan or section 401(m) plan; and
- 8 (2) 95 percent of the employees who 9 are not employees of an organization de-10 scribed in section 403(b)(1)(A)(i) of such 11 Code are eligible to participate in such 12 plan under such section 401(k) or (m).
- 13 **(b)** EFFECTIVE DATE.—The modification re-14 quired by subsection (a) shall apply as of the 15 same date set forth in section 1426(b) of the 16 Small Business Job Protection Act of 1996.
- 17 SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-
- 18 PROVIDED RETIREMENT ADVICE.
- 19 (a) In General.—Subsection (a) of section
- 20 132 (relating to exclusion from gross income)
- 21 is amended by striking "or" at the end of para-
- 22 graph (5), by striking the period at the end of
- 23 paragraph (6) and inserting ", or", and by add-
- 24 ing at the end the following new paragraph:

1	"(7) qualified retirement planning
2	services.".
3	(b) QUALIFIED RETIREMENT PLANNING SERV-
4	ICES DEFINED.—Section 132 is amended by re-
5	designating subsection (m) as subsection (n)
6	and by inserting after subsection (l) the fol-
7	lowing:
8	"(m) QUALIFIED RETIREMENT PLANNING
9	Services.—
10	"(1) In general.—For purposes of this
11	section, the term 'qualified retirement
12	planning services' means any retirement
13	planning advice or information provided
14	to an employee and his spouse by an em-
15	ployer maintaining a qualified employer
16	plan.
17	"(2) Nondiscrimination rule.—Sub-
18	section (a)(7) shall apply in the case of
19	highly compensated employees only if
20	such services are available on substan-
21	tially the same terms to each member of
22	the group of employees normally pro-
23	vided education and information regard-
24	ing the employer's qualified employer

25

plan.

1	"(3) QUALIFIED EMPLOYER PLAN.—For
2	purposes of this subsection, the term
3	'qualified employer plan' means a plan,
4	contract, pension, or account described
5	in section $219(g)(5)$.".
6	(c) EFFECTIVE DATE.—The amendments
7	made by this section shall apply to years be-
8	ginning after December 31, 2001.
9	SEC. 606. REPORTING SIMPLIFICATION.
10	(a) SIMPLIFIED ANNUAL FILING REQUIRE-
11	MENT FOR OWNERS AND THEIR SPOUSES.—
12	(1) IN GENERAL.—The Secretary of the
13	Treasury and the Secretary of Labor
14	shall modify the requirements for filing
15	annual returns with respect to one-par-
16	ticipant retirement plans to ensure that
17	such plans with assets of \$250,000 or less
18	as of the close of the plan year need not
19	file a return for that year.
20	(2) ONE-PARTICIPANT RETIREMENT PLAN
21	DEFINED.—For purposes of this sub-
22	section, the term "one-participant retire-
23	ment plan" means a retirement plan

that—

1	(A) on the first day of the plan
2	year—
3	(i) covered only the employer
4	(and the employer's spouse) and
5	the employer owned the entire
6	business (whether or not incor-
7	porated); or
8	(ii) covered only one or more
9	partners (and their spouses) in a
10	business partnership (including
11	partners in an S or C corpora-
12	tion);
13	(B) meets the minimum coverage
14	requirements of section 410(b) of the
15	Internal Revenue Code of 1986 with-
16	out being combined with any other
17	plan of the business that covers the
18	employees of the business;
19	(C) does not provide benefits to
20	anyone except the employer (and the
21	employer's spouse) or the partners
22	(and their spouses);
23	(D) does not cover a business that
24	is a member of an affiliated service
25	group, a controlled group of corpora-

1	tions, or a group of businesses under
2	common control; and
3	(E) does not cover a business that
4	leases employees.
5	(3) OTHER DEFINITIONS.—Terms used
6	in paragraph (2) which are also used in
7	section 414 of the Internal Revenue Code
8	of 1986 shall have the respective mean-
9	ings given such terms by such section.
10	(b) SIMPLIFIED ANNUAL FILING REQUIRE-
11	MENT FOR PLANS WITH FEWER THAN 25 EMPLOY-
12	EES.—In the case of plan years beginning after
13	December 31, 2002, the Secretary of the Treas-
14	ury and the Secretary of Labor shall provide
15	for the filing of a simplified annual return for
16	any retirement plan which covers less than 25
17	employees on the first day of a plan year and
18	which meets the requirements described in
19	subparagraphs (B), (D), and (E) of subsection
20	(a)(2).
21	(c) EFFECTIVE DATE.—The provisions of
22	this section shall take effect on January 1
23	2002.

1	SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-
2	ANCE RESOLUTION SYSTEM.
3	The Secretary of the Treasury shall con-
4	tinue to update and improve the Employee
5	Plans Compliance Resolution System (or any
6	successor program) giving special attention
7	to—
8	(1) increasing the awareness and
9	knowledge of small employers concerning
10	the availability and use of the program;
11	(2) taking into account special con-
12	cerns and circumstances that small em-
13	ployers face with respect to compliance
14	and correction of compliance failures;
15	(3) extending the duration of the self-
16	correction period under the Administra-
17	tive Policy Regarding Self-Correction for
18	significant compliance failures;
19	(4) expanding the availability to cor-
20	rect insignificant compliance failures
21	under the Administrative Policy Regard-
22	ing Self-Correction during audit; and
23	(5) assuring that any tax, penalty, or
24	sanction that is imposed by reason of a
25	compliance failure is not excessive and

1	bears a reasonable relationship to the na-
2	ture, extent, and severity of the failure.
3	SEC. 608. REPEAL OF THE MULTIPLE USE TEST.
4	(a) In General.—Paragraph (9) of section
5	401(m) is amended to read as follows:
6	"(9) REGULATIONS.—The Secretary
7	shall prescribe such regulations as may
8	be necessary to carry out the purposes of
9	this subsection and subsection (k), in-
10	cluding regulations permitting appro-
11	priate aggregation of plans and contribu-
12	tions.".
13	(b) EFFECTIVE DATE.—The amendment
14	made by this section shall apply to years be-
15	ginning after December 31, 2001.
16	SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-
17	ERAGE, AND LINE OF BUSINESS RULES.
18	(a) Nondiscrimination.—
19	(1) IN GENERAL.—The Secretary of the
20	Treasury shall, by regulation, provide
21	that a plan shall be deemed to satisfy the
22	requirements of section 401(a)(4) of the
23	Internal Revenue Code of 1986 if such
24	plan satisfies the facts and circumstances

test under section 401(a)(4) of such Code,

1	as in effect before January 1, 1994, but
2	only if—
3	(A) the plan satisfies conditions
4	prescribed by the Secretary to appro-
5	priately limit the availability of such
6	test; and
7	(B) the plan is submitted to the
8	Secretary for a determination of
9	whether it satisfies such test.
10	Subparagraph (B) shall only apply to the
11	extent provided by the Secretary.
12	(2) EFFECTIVE DATES.—
13	(A) REGULATIONS.—The regulation
14	required by paragraph (1) shall apply
15	to years beginning after December 31,
16	2003.
17	(B) CONDITIONS OF AVAILABILITY.—
18	Any condition of availability pre-
19	scribed by the Secretary under para-
20	graph (1)(A) shall not apply before
21	the first year beginning not less than
22	120 days after the date on which such
23	condition is prescribed.
24	(b) COVERAGE TEST.—

1	(1) In General.—Section $410(b)(1)$ (re-
2	lating to minimum coverage require-
3	ments) is amended by adding at the end
4	the following:
5	"(D) In the case that the plan fails
6	to meet the requirements of subpara-
7	graphs (A), (B) and (C), the plan—
8	"(i) satisfies subparagraph
9	(B), as in effect immediately be-
10	fore the enactment of the Tax Re-
11	form Act of 1986,
12	"(ii) is submitted to the Sec-
13	retary for a determination of
14	whether it satisfies the require-
15	ment described in clause (i), and
16	"(iii) satisfies conditions pre-
17	scribed by the Secretary by regu-
18	lation that appropriately limit the
19	availability of this subparagraph.
20	Clause (ii) shall apply only to the ex-
21	tent provided by the Secretary.".
22	(2) EFFECTIVE DATES.—
23	(A) IN GENERAL.—The amendment
24	made by paragraph (1) shall apply to

- years beginning after December 31, 2 2003.
- (B) CONDITIONS OF AVAILABILITY.— 3 Any condition of availability pre-4 scribed by the Secretary under regulations prescribed by the Secretary 6 7 under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not 8 apply before the first year beginning 9 not less than 120 days after the date 10 on which such condition is pre-11 scribed. 12
- 13 (c) LINE OF BUSINESS RULES.—The Sec14 retary of the Treasury shall, on or before De15 cember 31, 2003, modify the existing regula16 tions issued under section 414(r) of the Inter17 nal Revenue Code of 1986 in order to expand
 18 (to the extent that the Secretary determines
 19 appropriate) the ability of a pension plan to
 20 demonstrate compliance with the line of busi21 ness requirements based upon the facts and
 22 circumstances surrounding the design and
 23 operation of the plan, even though the plan is
 24 unable to satisfy the mechanical tests cur25 rently used to determine compliance.

1	SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF
2	MORATORIUM ON APPLICATION OF CERTAIN
3	NONDISCRIMINATION RULES APPLICABLE TO
4	STATE AND LOCAL PLANS.
5	(a) In General.—
6	(1) Subparagraph (G) of section
7	401(a)(5) and subparagraph (H) of section
8	401(a)(26) are each amended by striking
9	"section 414(d))" and all that follows and
10	inserting "section 414(d)).".
11	(2) Subparagraph (G) of section
12	401(k)(3) and paragraph (2) of section
13	1505(d) of the Taxpayer Relief Act of 1997
14	are each amended by striking "main-
15	tained by a State or local government or
16	political subdivision thereof (or agency
17	or instrumentality thereof)".
18	(b) Conforming Amendments.—
19	(1) The heading for subparagraph (G)
20	of section 401(a)(5) is amended to read as
21	follows: "Governmental plans".
22	(2) The heading for subparagraph (H)
23	of section 401(a)(26) is amended to read
24	as follows: "Exception for governmental
25	PLANS".

1	(3) Subparagraph (G) of section
2	401(k)(3) is amended by inserting "Gov-
3	ERNMENTAL PLANS.—" after "(G)".
4	(c) EFFECTIVE DATE.—The amendments
5	made by this section shall apply to years be-
6	ginning after December 31, 2001.
7	SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-
8	TRIBUTIONS.
9	(a) Expansion of Period.—
10	(1) AMENDMENT OF INTERNAL REVENUE
11	CODE.—
12	(A) In GENERAL.—Subparagraph
13	(A) of section 417(a)(6) is amended by
14	striking "90-day" and inserting "180-
15	day".
16	(B) MODIFICATION OF REGULA-
17	TIONS.—The Secretary of the Treasury
18	shall modify the regulations under
19	sections 402(f), 411(a)(11), and 417 of
20	the Internal Revenue Code of 1986 to
21	substitute "180 days" for "90 days"
22	each place it appears in Treasury
23	Regulations sections 1.402(f)-1,
24	1.411(a)-11(c), and 1.417(e)-1(b).
25	(2) AMENDMENT OF ERISA —

	3 3 –
1	(A) In GENERAL.—Section
2	205(c)(7)(A) of the Employee Retire-
3	ment Income Security Act of 1974 (29
4	U.S.C. $1055(c)(7)(A)$) is amended by
5	striking "90-day" and inserting "180-
6	day".
7	(B) MODIFICATION OF REGULA
8	TIONS.—The Secretary of the Treasury
9	shall modify the regulations under
10	part 2 of subtitle B of title I of the
11	Employee Retirement Income Secu-
12	rity Act of 1974 to the extent that
13	they relate to sections 203(e) and 205
14	of such Act to substitute "180 days'
15	for "90 days" each place it appears.
16	(3) EFFECTIVE DATE.—The amendments
17	made by paragraph (1)(A) and (2) and the
18	modifications required by paragraph
19	(1)(B) shall apply to years beginning after
20	December 31, 2001.
21	(b) Consent Regulation Inapplicable to
22	CERTAIN DISTRIBUTIONS.—
23	(1) In GENERAL.—The Secretary of the
24	Treasury shall modify the regulations

under section 411(a)(11) of the Internal

- 1 Revenue Code of 1986 and under section
- 2 **205** of the Employee Retirement Income
- 3 Security Act of 1974 to provide that the
- 4 description of a participant's right, if
- 5 any, to defer receipt of a distribution
- 6 shall also describe the consequences of
- 7 failing to defer such receipt.
- 8 (2) Effective date.—The modifica-
- 9 tions required by paragraph (1) shall
- apply to years beginning after December
- 11 **31, 2001.**
- 12 SEC. 612. ANNUAL REPORT DISSEMINATION.
- 13 (a) REPORT AVAILABLE THROUGH ELEC-
- 14 TRONIC MEANS.—Section 104(b)(3) of the Em-
- 15 ployee Retirement Income Security Act of
- 16 1974 (29 U.S.C. 1024(b)(3)) is amended by add-
- 17 ing at the end the following new sentence:
- 18 "The requirement to furnish information
- 19 under the previous sentence shall be satisfied
- 20 if the administrator makes such information
- 21 reasonably available through electronic
- 22 means or other new technology.".
- 23 **(b) EFFECTIVE DATE.—The amendment**
- 24 made by this section shall apply to reports for
- 25 years beginning after December 31, 2000.

1	SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.
2	Section 517 of the Employee Retirement
3	Income Security Act of 1974 (29 U.S.C. 1147)
4	is amended—
5	(1) in subsection (a), by striking "2001
6	and 2005 on or after September 1 of each
7	year involved" and inserting "2001, 2005,
8	and 2009 in the month of September of
9	each year involved";
10	(2) in subsection (b), by adding at the
11	end the following new sentence: "To ef-
12	fectuate the purposes of this paragraph,
13	the Secretary may enter into a coopera-
14	tive agreement, pursuant to the Federal
15	Grant and Cooperative Agreement Act of
16	1977 (31 U.S.C. 6301 et seq.), with the
17	American Savings Education Council or
18	any other appropriate, qualified entity.";
19	(3) in subsection (e)(2)—
20	(A) by striking "Committee on
21	Labor and Human Resources" in sub-
22	paragraph (D) and inserting "Com-
23	mittee on Health, Education, Labor,
24	and Pensions";
25	(B) by striking subparagraph (F)
26	and inserting the following:

1	"(F) the Chairman and Ranking
2	Member of the Subcommittee on
3	Labor, Health and Human Services,
4	and Education of the Committee on
5	Appropriations of the House of Rep-
6	resentatives and the Chairman and
7	Ranking Member of the Sub-
8	committee on Labor, Health and
9	Human Services, and Education of
10	the Committee on Appropriations of
11	the Senate;";
12	(C) by redesignating subpara-
13	graph (G) as subparagraph (J); and
14	(D) by inserting after subpara-
15	graph (F) the following new subpara-
16	graphs:
17	"(G) the Chairman and Ranking
18	Member of the Committee on Finance
19	of the Senate;
20	"(H) the Chairman and Ranking
21	Member of the Committee on Ways
22	and Means of the House of Represent-
23	atives;
24	"(I) the Chairman and Ranking
25	Mombon of the Subcommittee on Em-

ployer-Employee Relations of the
Committee on Education and the
Workforce of the House of Representatives; and";

(4) in subsection (e)(3)—

- (A) by striking "There shall be not more than 200 additional participants." in subparagraph (A) and inserting "The participants in the National Summit shall also include additional participants appointed under this subparagraph.";
- (B) by striking "one-half shall be appointed by the President," in subparagraph (A)(i) and inserting "not more than 100 participants shall be appointed under this clause by the President,";
- (C) by striking "one-half shall be appointed by the elected leaders of Congress" in subparagraph (A)(ii) and inserting "not more than 100 participants shall be appointed under this clause by the elected leaders of Congress";

1	(D)	\mathbf{by}	redesignating	subpara-
2	graph (H	3) as	subparagraph (C); and

- (E) by inserting after subparagraph (A) the following new subparagraph:
- "(B) PRESIDENTIAL AUTHORITY FOR ADDITIONAL APPOINTMENTS.—The President, in consultation with the elected leaders of Congress referred to in subsection (a), may appoint under this subparagraph additional participants to the National Summit. The number of such additional participants appointed under this subparagraph may not exceed the lesser of 3 percent of the total number of all additional participants appointed under this paragraph, or 10. Such additional participants shall be appointed from persons nominated by the organization referred to in subsection (b)(2) which is made up of private sector and associations businesses partnered with Government entities to promote long term financial secu-

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1	rity in retirement through savings
2	and with which the Secretary is re-
3	quired thereunder to consult and co-
4	operate and shall not be Federal,
5	State, or local government employ-
6	ees.";
7	(5) in subsection (e)(3)(C) (as redesig-
8	nated), by striking "January 31, 1998"
9	and inserting "May 1, 2001, May 1, 2005,
10	and May 1, 2009, for each of the subse-
11	quent summits, respectively";
12	(6) in subsection (f)(1)(C), by inserting
13	", no later than 90 days prior to the date
14	of the commencement of the National
15	Summit," after "comment";
16	(7) in subsection (g), by inserting ", in
17	consultation with the congressional lead-
18	ers specified in subsection (e)(2)," after
19	"report" the first place it appears;
20	(8) in subsection (i)—
21	(A) by striking "beginning on or
22	after October 1, 1997" in paragraph
23	(1) and inserting "2001, 2005, and
24	2009": and

1	(B) by adding at the end the fol-
2	lowing new paragraph:
3	"(3) RECEPTION AND REPRESENTATION
4	AUTHORITY.—The Secretary is hereby
5	granted reception and representation au-
6	thority limited specifically to the events
7	at the National Summit. The Secretary
8	shall use any private contributions ac-
9	cepted in connection with the National
10	Summit prior to using funds appro-
11	priated for purposes of the National Sum-
12	mit pursuant to this paragraph."; and
13	(9) in subsection (k)—
14	(A) by striking "shall enter into a
15	contract on a sole-source basis" and
16	inserting "may enter into a contract
17	on a sole-source basis"; and
18	(B) by striking "fiscal year 1998"
19	and inserting "fiscal years 2001, 2005,
20	and 2009".
21	TITLE VII—OTHER ERISA
22	PROVISIONS
23	SEC. 701. MISSING PARTICIPANTS.
24	(a) In General.—Section 4050 of the Em-
25	ployee Retirement Income Security Act of

- 1 1974 (29 U.S.C. 1350) is amended by redesig-
- 2 nating subsection (c) as subsection (e) and by
- 3 inserting after subsection (b) the following
- 4 new subsections:
- 5 "(c) MULTIEMPLOYER PLANS.—The corpora-
- 6 tion shall prescribe rules similar to the rules
- 7 in subsection (a) for multiemployer plans cov-
- 8 ered by this title that terminate under section
- 9 **4041A**.
- 10 "(d) Plans Not Otherwise Subject to
- 11 **TITLE.**—
- 12 "(1) Transfer to corporation.—The
- plan administrator of a plan described in
- paragraph (4) may elect to transfer a
- missing participant's benefits to the cor-
- poration upon termination of the plan.
- 17 "(2) Information to the corpora-
- 18 TION.—To the extent provided in regula-
- tions, the plan administrator of a plan de-
- scribed in paragraph (4) shall, upon ter-
- 21 mination of the plan, provide the cor-
- poration information with respect to ben-
- efits of a missing participant if the plan
- 24 transfers such benefits—
- 25 "(A) to the corporation, or

1	"(B) to an entity other than the
2	corporation or a plan described in
3	paragraph (4)(B)(ii).
4	"(3) PAYMENT BY THE CORPORATION.—If
5	benefits of a missing participant were
6	transferred to the corporation under
7	paragraph (1), the corporation shall,
8	upon location of the participant or bene-
9	ficiary, pay to the participant or bene-
10	ficiary the amount transferred (or the ap-
11	propriate survivor benefit) either—
12	"(A) in a single sum (plus inter-
13	est), or
14	"(B) in such other form as is spec-
15	ified in regulations of the corpora-
16	tion.
17	"(4) Plans described.—A plan is de-
18	scribed in this paragraph if—
19	"(A) the plan is a pension plan
20	(within the meaning of section 3(2))—
21	"(i) to which the provisions of
22	this section do not apply (without
23	regard to this subsection), and

1	"(ii) which is not a plan de-
2	scribed in paragraphs (2) through
3	(11) of section 4021(b), and
4	"(B) at the time the assets are to
5	be distributed upon termination, the
6	plan—
7	"(i) has missing participants,
8	and
9	"(ii) has not provided for the
10	transfer of assets to pay the bene-
11	fits of all missing participants to
12	another pension plan (within the
13	meaning of section $3(2)$).
14	"(5) CERTAIN PROVISIONS NOT TO
15	APPLY.—Subsections (a)(1) and (a)(3) shall
16	not apply to a plan described in para-
17	graph (4).".
18	(b) Conforming Amendments.—Section
19	206(f) of such Act (29 U.S.C. 1056(f)) is
20	amended—
21	(1) by striking "title IV" and inserting
22	"section 4050"; and
23	(2) by striking "the plan shall provide
24	that."

1	(c) EFFECTIVE DATE.—The amendments
2	made by this section shall apply to distribu-
3	tions made after final regulations imple-
4	menting subsections (c) and (d) of section
5	4050 of the Employee Retirement Income Se-
6	curity Act of 1974 (as added by subsection (a)),
7	respectively, are prescribed.
8	SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF
9	SMALL EMPLOYERS.
10	(a) In General.—Subparagraph (A) of sec-
11	tion 4006(a)(3) of the Employee Retirement In-
12	come Security Act of 1974 (29 U.S.C.
13	1306(a)(3)(A)) is amended—
14	(1) in clause (i), by inserting "other
15	than a new single-employer plan (as de-
16	fined in subparagraph (F)) maintained by
17	a small employer (as so defined)," after
18	"single-employer plan,",
19	(2) in clause (iii), by striking the pe-
20	riod at the end and inserting ", and", and
21	(3) by adding at the end the following
22	new clause:
23	"(iv) in the case of a new single-em-
24	ployer plan (as defined in subparagraph
25	(F)) maintained by a small employer (as

- so defined) for the plan year, \$5 for each
- 2 individual who is a participant in such
- 3 plan during the plan year.".
- 4 (b) DEFINITION OF NEW SINGLE-EMPLOYER
- 5 PLAN.—Section 4006(a)(3) of the Employee Re-
- 6 tirement Income Security Act of 1974 (29
- 7 U.S.C. 1306(a)(3)) is amended by adding at the
- 8 end the following new subparagraph:
- 9 "(F)(i) For purposes of this paragraph, a
- 10 single-employer plan maintained by a contrib-
- 11 uting sponsor shall be treated as a new single-
- 12 employer plan for each of its first 5 plan years
- 13 if, during the 36-month period ending on the
- 14 date of the adoption of such plan, the sponsor
- 15 or any member of such sponsor's controlled
- 16 group (or any predecessor of either) did not
- 17 establish or maintain a plan to which this title
- 18 applies with respect to which benefits were
- 19 accrued for substantially the same employees
- 20 as are in the new single-employer plan.
- "(ii)(I) For purposes of this paragraph, the
- 22 term 'small employer' means an employer
- 23 which on the first day of any plan year has,
- 24 in aggregation with all members of the con-

- 1 trolled group of such employer, 100 or fewer
- 2 **employees.**
- 3 "(II) In the case of a plan maintained by
- 4 two or more contributing sponsors that are
- 5 not part of the same controlled group, the em-
- 6 ployees of all contributing sponsors and con-
- 7 trolled groups of such sponsors shall be ag-
- 8 gregated for purposes of determining whether
- 9 any contributing sponsor is a small em-
- 10 ployer.".
- 11 (c) EFFECTIVE DATE.—The amendments
- 12 made by this section shall apply to plans es-
- 13 tablished after December 31, 2001.
- 14 SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR
- 15 NEW AND SMALL PLANS.
- 16 (a) NEW PLANS.—Subparagraph (E) of sec-
- 17 tion 4006(a)(3) of the Employee Retirement In-
- 18 come Security Act of 1974 (29 U.S.C.
- 19 1306(a)(3)(E)) is amended by adding at the
- 20 end the following new clause:
- "(v) In the case of a new defined benefit
- 22 plan, the amount determined under clause (ii)
- 23 for any plan year shall be an amount equal to
- 24 the product of the amount determined under
- 25 clause (ii) and the applicable percentage. For

- 1 purposes of this clause, the term 'applicable
- 2 percentage' means—
- 3 "(I) 0 percent, for the first plan year.
- 4 "(II) 20 percent, for the second plan
- 5 **year.**
- 6 "(III) 40 percent, for the third plan
- 7 year.
- 8 "(IV) 60 percent, for the fourth plan
- 9 **year.**
- 10 "(V) 80 percent, for the fifth plan
- 11 **year.**
- 12 For purposes of this clause, a defined benefit
- 13 plan (as defined in section 3(35)) maintained
- 14 by a contributing sponsor shall be treated as
- 15 a new defined benefit plan for each of its first
- 16 5 plan years if, during the 36-month period
- 17 ending on the date of the adoption of the plan,
- 18 the sponsor and each member of any con-
- 19 trolled group including the sponsor (or any
- 20 predecessor of either) did not establish or
- 21 maintain a plan to which this title applies
- 22 with respect to which benefits were accrued
- 23 for substantially the same employees as are in
- 24 the new plan.".

- 1 (b) SMALL PLANS.—Paragraph (3) of sec-
- 2 tion 4006(a) of the Employee Retirement In-
- 3 come Security Act of 1974 (29 U.S.C. 1306(a)),
- 4 as amended by section 702(b), is amended—
- 5 (1) by striking "The" in subparagraph
- 6 (E)(i) and inserting "Except as provided
- 7 in subparagraph (G), the", and
- 8 (2) by inserting after subparagraph
- 9 **(F) the following new subparagraph:**
- 10 "(G)(i) In the case of an employer who has
- 11 25 or fewer employees on the first day of the
- 12 plan year, the additional premium deter-
- 13 mined under subparagraph (E) for each par-
- 14 ticipant shall not exceed \$5 multiplied by the
- 15 number of participants in the plan as of the
- 16 close of the preceding plan year.
- "(ii) For purposes of clause (i), whether an
- 18 employer has 25 or fewer employees on the
- 19 first day of the plan year is determined taking
- 20 into consideration all of the employees of all
- 21 members of the contributing sponsor's con-
- 22 trolled group. In the case of a plan main-
- 23 tained by two or more contributing sponsors,
- 24 the employees of all contributing sponsors
- 25 and their controlled groups shall be aggre-

1	gated for purposes of determining whether
2	the 25-or-fewer-employees limitation has been
3	satisfied.".
4	(c) EFFECTIVE DATES.—
5	(1) Subsection (a).—The amendments
6	made by subsection (a) shall apply to
7	plans established after December 31,
8	2001.
9	(2) Subsection (b).—The amendments
10	made by subsection (b) shall apply to
11	plan years beginning after December 31,
12	2001.
13	SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON
14	PREMIUM OVERPAYMENT REFUNDS.
15	(a) In General.—Section 4007(b) of the
16	Employment Retirement Income Security Act
17	of 1974 (29 U.S.C. 1307(b)) is amended—
18	(1) by striking "(b)" and inserting
19	"(b)(1)", and
20	(2) by inserting at the end the fol-
21	lowing new paragraph:
22	"(2) The corporation is authorized to pay,
23	subject to regulations prescribed by the cor-
24	poration, interest on the amount of any over-
25	payment of premium refunded to a des-

	1	ignated	payor.	Interest	under	this	paragrap	h
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- 2 shall be calculated at the same rate and in the
- 3 same manner as interest is calculated for un-
- 4 derpayments under paragraph (1).".
- 5 **(b) EFFECTIVE DATE.—The amendment**
- 6 made by subsection (a) shall apply to interest
- 7 accruing for periods beginning not earlier
- 8 than the date of the enactment of this Act.
- 9 SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED
- 10 PLANS.
- 11 (a) Modification of Phase-In of Guar-
- 12 ANTEE.—Section 4022(b)(5) of the Employee
- 13 Retirement Income Security Act of 1974 (29
- 14 U.S.C. 1322(b)(5)) is amended to read as fol-
- 15 **lows**:
- 16 "(5)(A) For purposes of this paragraph,
- 17 the term 'majority owner' means an indi-
- 18 vidual who, at any time during the 60-month
- 19 period ending on the date the determination
- 20 is being made—
- "(i) owns the entire interest in an un-
- incorporated trade or business,
- 23 "(ii) in the case of a partnership, is a
- 24 partner who owns, directly or indirectly,
- 25 **50** percent or more of either the capital

	0 = 0
1	interest or the profits interest in such
2	partnership, or
3	"(iii) in the case of a corporation,
4	owns, directly or indirectly, 50 percent or
5	more in value of either the voting stock
6	of that corporation or all the stock of
7	that corporation.
8	For purposes of clause (iii), the constructive
9	ownership rules of section 1563(e) of the In-
10	ternal Revenue Code of 1986 shall apply (de-
11	termined without regard to section
12	1563(e)(3)(C)).
13	"(B) In the case of a participant who is a
14	majority owner, the amount of benefits guar-
15	anteed under this section shall equal the
16	product of—
17	"(i) a fraction (not to exceed 1) the
18	numerator of which is the number of
19	years from the later of the effective date
20	or the adoption date of the plan to the
21	termination date, and the denominator of
22	which is 10, and

"(ii) the amount of benefits that
would be guaranteed under this section if

1	the participant were not a majority
2	owner.".
3	(b) Modification of Allocation of As-
4	SETS.—
5	(1) Section $4044(a)(4)(B)$ of the Em-
6	ployee Retirement Income Security Act of
7	1974 (29 U.S.C. 1344(a)(4)(B)) is amended
8	by striking "section 4022(b)(5)" and in-
9	serting "section 4022(b)(5)(B)".
10	(2) Section 4044(b) of such Act (29
11	U.S.C. 1344(b)) is amended—
12	(A) by striking "(5)" in paragraph
13	(2) and inserting "(4), (5),", and
14	(B) by redesignating paragraphs
15	(3) through (6) as paragraphs (4)
16	through (7), respectively, and by in-
17	serting after paragraph (2) the fol-
18	lowing new paragraph:
19	"(3) If assets available for allocation
20	under paragraph (4) of subsection (a) are
21	insufficient to satisfy in full the benefits
22	of all individuals who are described in
23	that paragraph, the assets shall be allo-
24	cated first to benefits described in sub-
25	paragraph (A) of that paragraph. Any re-

1	maining assets shall then be allocated to
2	benefits described in subparagraph (B) of
3	that paragraph. If assets allocated to
4	such subparagraph (B) are insufficient to
5	satisfy in full the benefits described in
6	that subparagraph, the assets shall be al-
7	located pro rata among individuals on
8	the basis of the present value (as of the
9	termination date) of their respective ben-
10	efits described in that subparagraph.".
11	(c) CONFORMING AMENDMENTS.—
12	(1) Section 4021 of the Employee Re-
13	tirement Income Security Act of 1974 (29
14	U.S.C. 1321) is amended—
15	(A) in subsection (b)(9), by strik-
16	ing "as defined in section 4022(b)(6)",
17	and
18	(B) by adding at the end the fol-
19	lowing new subsection:
20	"(d) For purposes of subsection (b)(9), the
21	term 'substantial owner' means an individual
22	who, at any time during the 60-month period
23	ending on the date the determination is being
24	made—

1	"(1) owns the entire interest in an un-
2	incorporated trade or business,
3	"(2) in the case of a partnership, is a
4	partner who owns, directly or indirectly,
5	more than 10 percent of either the capital
6	interest or the profits interest in such
7	partnership, or
8	"(3) in the case of a corporation,
9	owns, directly or indirectly, more than 10
10	percent in value of either the voting
11	stock of that corporation or all the stock
12	of that corporation.
13	For purposes of paragraph (3), the construc-
14	tive ownership rules of section 1563(e) of the
15	Internal Revenue Code of 1986 shall apply
16	(determined without regard to section
17	1563(e)(3)(C)).".
18	(2) Section 4043(c)(7) of such Act (29 U.S.C.
19	1343(c)(7)) is amended by striking "section
20	4022(b)(6)" and inserting "section 4021(d)".
21	(d) Effective Dates.—
22	(1) In GENERAL.—Except as provided
23	in paragraph (2), the amendments made
24	by this section shall apply to plan

25

terminations—

1	(A) under section 4041(c) of the
2	Employee Retirement Income Secu-
3	rity Act of 1974 (29 U.S.C. 1341(c))
4	with respect to which notices of in-
5	tent to terminate are provided under
6	section 4041(a)(2) of such Act (29
7	U.S.C. 1341(a)(2)) after December 31,
8	2001, and
9	(B) under section 4042 of such Act
10	(29 U.S.C. 1342) with respect to which
11	proceedings are instituted by the cor-
12	poration after such date.
13	(2) CONFORMING AMENDMENTS.—The
14	amendments made by subsection (c) shall
15	take effect on January 1, 2002.
16	SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY
17	RESPONSIBILITY.
18	(a) Imposition and Amount of Penalty
19	MADE DISCRETIONARY.—Section 502(l)(1) of the
20	Employee Retirement Income Security Act of
21	1974 (29 U.S.C. 1132(l)(1)) is amended—
22	(1) by striking "shall" and inserting
23	"may", and
24	(2) by striking "equal to" and insert-
25	ing "not greater than".

- 1 (b) APPLICABLE RECOVERY AMOUNT.—Sec-
- 2 tion 502(1)(2) of such Act (29 U.S.C. 1132(1)(2))
- 3 is amended by inserting after "fiduciary or
- 4 other person" the following: "(or from any
- 5 other person on behalf of any such fiduciary
- 6 or other person)".
- 7 (c) Other Rules.—Section 502(l) of the
- 8 Employee Retirement Income Security Act of
- 9 1974 (29 U.S.C. 1132(l)) is amended by adding
- 10 at the end the following new paragraphs:
- 11 "(5) A person shall be jointly and severally
- 12 liable for the penalty described in paragraph
- 13 (1) to the same extent that such person is
- 14 jointly and severally liable for the applicable
- 15 recovery amount on which the penalty is
- 16 **based.**
- 17 "(6) No penalty shall be assessed under
- 18 this subsection unless the person against
- 19 whom the penalty is assessed is given notice
- 20 and opportunity for a hearing with respect to
- 21 the violation and applicable recovery
- 22 amount.".
- 23 (d) Effective Date.—The amendments
- 24 made by this section shall apply to any breach
- 25 of fiduciary responsibility or other violation

1	of part 4 of subtitle B of title I of the Employee
2	Retirement Income Security Act of 1974 oc-
3	curring on or after the date of the enactment
4	of this Act.
5	SEC. 707. BENEFIT SUSPENSION NOTICE.
6	(a) Modification of Regulation.—The
7	Secretary of Labor shall modify the regula-
8	tion under subparagraph (B) of section
9	203(a)(3) of the Employee Retirement Income
10	Security Act of 1974 (29 U.S.C. 1053(a)(3)(B))
11	to provide that the notification required by
12	such regulation in connection with any sus-
13	pension of benefits described in such
14	subparagraph—
15	(1) in the case of an employee who re-
16	turns to service under the plan after com-
17	mencement of payment of benefits under
18	the plan—
19	(A) shall be made during the first
20	calendar month or payroll period in
21	which the plan withholds payments,
22	and
23	(B) if a reduced rate of future
24	benefit accrual will apply to the re-
25	turning employee (as of the first date

1	of participation in the plan by the					
2	employee after returning to work),					
3	shall include a statement that the					
4	rate of future benefit accrual will be					
5	reduced, and					
6	(2) in the case of any employee who is					
7	not described in paragraph (1)—					
8	(A) may be included in the sum-					
9	mary plan description for the plan					
10	furnished in accordance with section					
11	104(b) of such Act (29 U.S.C. 1024(b)),					
12	rather than in a separate notice, and					
13	(B) need not include a copy of the					
14	relevant plan provisions.					
15	(b) EFFECTIVE DATE.—The modification					
16	made under this section shall apply to plan					
17	years beginning after December 31, 2001.					
18	SEC. 708. STUDIES.					
19	(a) MODEL SMALL EMPLOYER GROUP PLANS					
20	STUDY.—As soon as practicable after the date					
21	of the enactment of this Act, the Secretary of					
22	Labor, in consultation with the Secretary of					
23	the Treasury, shall conduct a study to					

determine—

1	(1) the most appropriate form or					
2	forms of—					
3	(A) employee pension benefit					
4	plans which would—					
5	(i) be simple in form and eas-					
6	ily maintained by multiple small					
7	employers, and					
8	(ii) provide for ready port-					
9	ability of benefits for all partici-					
10	pants and beneficiaries,					
11	(B) alternative arrangements pro-					
12	viding comparable benefits which					
13	may be established by employee or					
14	employer associations, and					
15	(C) alternative arrangements pro-					
16	viding comparable benefits to which					
17	employees may contribute in a man-					
18	ner independent of employer sponsor-					
19	ship, and					
20	(2) appropriate methods and strate-					
21	gies for making pension plan coverage					
22	described in paragraph (1) more widely					
23	available to American workers.					
24	(b) MATTERS TO BE CONSIDERED.—In con-					
25	ducting the study under subsection (a), the					

- 1 Secretary of Labor shall consider the ade-
- 2 quacy and availability of existing employee
- 3 pension benefit plans and the extent to which
- 4 existing models may be modified to be more
- 5 accessible to both employees and employers.
- 6 (c) REPORT.—Not later than 18 months
- 7 after the date of the enactment of this Act, the
- 8 Secretary of Labor shall report the results of
- 9 the study under subsection (a), together with
- 10 the Secretary's recommendations, to the Com-
- 11 mittee on Education and the Workforce and
- 12 the Committee on Ways and Means of the
- 13 House of Representatives and the Committee
- 14 on Health, Education, Labor, and Pensions
- 15 and the Committee on Finance of the Senate.
- 16 Such recommendations shall include one or
- 17 more model plans described in subsection
- 18 (a)(1)(A) and model alternative arrangements
- 19 described in subsections (a)(1)(B) and
- 20 (a)(1)(C) which may serve as the basis for ap-
- 21 propriate administrative or legislative action.
- 22 (d) STUDY ON EFFECT OF LEGISLATION.—Not
- 23 later than 5 years after the date of the enact-
- 24 ment of this Act, the Secretary of Labor shall
- 25 submit to the Committee on Education and

1	the Workforce of the House of Representa-
2	tives and the Committee on Health, Edu-
3	cation, Labor, and Pensions of the Senate a
4	report on the effect of the provisions of this
5	Act on pension plan coverage, including any
6	change in—
7	(1) the extent of pension plan cov-
8	erage for low and middle-income work-
9	ers,
10	(2) the levels of pension plan benefits
11	generally,
12	(3) the quality of pension plan cov-
13	erage generally,
14	(4) workers' access to and participa-
15	tion in pension plans, and
16	(5) retirement security.
17	TITLE VIII—PLAN AMENDMENTS
18	SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.
19	(a) In General.—If this section applies to
20	any plan or contract amendment—
21	(1) such plan or contract shall be
22	treated as being operated in accordance
23	with the terms of the plan during the pe-
24	riod described in subsection (b)(2)(A);
25	and

1	(2) except as provided by the Sec-
2	retary of the Treasury, such plan shall
3	not fail to meet the requirements of sec-
4	tion 411(d)(6) of the Internal Revenue
5	Code of 1986 or section 204(g) of the Em-
6	ployee Retirement Income Security Act of
7	1974 by reason of such amendment.
8	(b) AMENDMENTS TO WHICH SECTION AP-
9	PLIES.—
10	(1) In General.—This section shall
11	apply to any amendment to any plan or
12	annuity contract which is made—
13	(A) pursuant to any amendment
14	made by this Act, or pursuant to any
15	regulation issued under this Act; and
16	(B) on or before the last day of
17	the first plan year beginning on or
18	after January 1, 2004.
19	In the case of a governmental plan (as de-
20	fined in section 414(d) of the Internal
21	Revenue Code of 1986), this paragraph
22	shall be applied by substituting "2006" for
23	"2004".
24	(2) CONDITIONS.—This section shall
25	not annly to any amendment unless—

1	(A) during the period—
2	(i) beginning on the date the
3	legislative or regulatory amend-
4	ment described in paragraph
5	(1)(A) takes effect (or in the case
6	of a plan or contract amendment
7	not required by such legislative
8	or regulatory amendment, the ef-
9	fective date specified by the
10	plan); and
11	(ii) ending on the date de-
12	scribed in paragraph (1)(B) (or, if
13	earlier, the date the plan or con-
14	tract amendment is adopted),
15	the plan or contract is operated as if
16	such plan or contract amendment
17	were in effect; and
18	(B) such plan or contract amend-
19	ment applies retroactively for such
20	period.

Union Calendar No. 33

107TH CONGRESS 1ST SESSION

H.R. 10

[Report No. 107-51, Parts I and II]

A BILL

To provide for pension reform, and for other purposes.

May 1, 2001

Reported from the Committee on Education and the Workforce with an amendment; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed